Acta Sanctae Sedis

Acts of the Holy See

Holy See; Vatican

An English translation of the Latin edition
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[*Latin ed. p. 1*]

THE ACTS OF THE HOLY SEE, CONCISELY COMPILED AND ILLUSTRATED WITH CARE BY VICTOR PIAZZESI, DOCTOR OF BOTH LAWS.

Legal and more solemn acts emanating directly from the Supreme Pontiff: these include those matters which can be made public under the law, whether they are Decrees, Instructions, Responses, or other similar documents; especially, expositions and resolutions of cases from the various Sacred Congregations, diligently compiled to contribute to a precise understanding and observance of ecclesiastical law: finally, other legal matters which suitably illuminate those matters presented in the aforementioned acts, or which further contribute to the knowledge of current law, for the benefit of those who diligently study the laws of the Church, and who labor diligently in the governance of the Christian flock, or in the cultivation of the Lord's vineyard.

ROME, FROM THE PRINTING PRESS OF THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, 1893-94.

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[*Latin ed. p. 3*]

3 FROM THE CONSISTORY ACTS: Concerning the consistory held on Thursday, the 16th of June, 1893, in the Vatican, in June 1893. In the Royal Hall of the Vatican Palace, a public consistory was held, during which His Holiness, Our Most Holy Father Leo XIII, Pope, presented the following Cardinals: Cardinal Pietro, Cardinal Fores, Cardinal Meignan, Cardinal Thomas, Cardinal Galimberti, Cardinal Vaszary, Cardinal Granniello, and Cardinal Sarto. After this, in the upper hall of the aforementioned Vatican, a secret consistory was held, in which, after the customary formalities had been observed before the Most Reverend Cardinals, His Holiness proposed the following sees: The Patriarchal Church of Venice, vacant due to the death of the Most Reverend and esteemed Dominic, formerly Cardinal Priest, the last Patriarch, who died outside the Roman curia, with the favor of Joseph, Cardinal Priest of the Sacred Roman Church, Sarto, Bishop of Mantua. The titular Archiepiscopal Church of Anazarbus, vacant due to the death of the Most Reverend Francis Lawrence, the last Archbishop, who died outside the Roman curia, with the favor of the Reverend Father Dominic Joachim Larrain Gandarillas, Bishop of Martyropolis. The

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Cathedral Church of Neosol, vacant due to the translation of the Reverend Father Enteric Bende to the See of Nice, with the favor of the Reverend Father Charles Rimely, a priest of the Archdiocese of Strigonium, nominated by the Most Sacred Majesty Francis Joseph I, Emperor of Austria, King of Bohemia and Hungary. The Reverend Father Charles Rimely, born of legitimate, Catholic, and honorable parents in the city of Strigonium, in the Archdiocese of Strigonium, and having surpassed his sixty-eighth year, having previously received the doctorate in sacred theology, having served as Sub-rector and Rector of the Pazmanian College, and having held the office of Prefect for several years, and having been appointed Professor of ecclesiastical history and canon law at the Strigonian Seminary. The Abbot of the Most Holy Savior of Lekér, Canon and Chancellor of the Collegiate Church of St. Martin in Pressburg, and hitherto Archdeacon and Parish Priest of that free royal city, has been appointed to the household of the Holy Father. The Cathedral Church of Oxomem, vacant due to the death of the Most Reverend Peter Mary Lagüera el Menezo, the last Bishop, who died outside the Roman curia, with the favor of the Reverend Father Victorian Guisasola and Menendez, a priest of Oviedo, presented by the Most Serene Queen Regent of the Catholic Kingdom. The Reverend Father Victorian Guisasola and Menendez, born of legitimate, Catholic, and honorable parents in the city of Oviedo, and having surpassed his forty-first year, a Bachelor in sacred theology and in both laws, having previously become a Doctor in canon law, having been examined synodally, both in Compostela and in other dioceses, and having been appointed a judge of the secret general provincial council of Compostela and of the archdiocesan synod of the same.

[*Latin ed. p. 4*]

4. From the Consistorial Acts, a chamberlain and notary resigned. Having been appointed as a Capitular Vicar while the See was vacant, he was added among the Apostolic Protonotaries as if he were a participant. The Church of Chihuahua in the Mexican territory of North America, separated from the Archdiocese of Durango by His Apostolic Letters dated July 9, 1891, was promoted to the status of a cathedral and was vacant from its original establishment; this occurred with the favor of the Reverend Joseph of Jesus Ortiz, a priest of the Archdiocese of Mechoacan. The Reverend Joseph of Jesus Ortiz, named Stanislaus Andrew at baptism, was born of legitimate, Catholic, and honorable parents in the city of Patzcuaro, in the Archdiocese of Mechoacan, and, having reached the forty-fourth year of his age, resigned from his position as Canon, Provisor, and General Vicar of that Metropolitan Church. The titular Episcopal Church of Joppa, under the Archbishop of Caesarea, became vacant due to the death of the Most Reverend Eugene O'Connell, the last Bishop of that See, who died outside of Rome, with the favor of the Reverend Joseph Francis Vander

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Stappen, a priest of the Archdiocese of Mechlin; who was also appointed as an Auxiliary to the Most Reverend and Right Reverend Peter Lambert, Cardinal Goossens, Archbishop of Mechlin, holding the title of Saint Cross in Jerusalem. The Reverend Joseph Francis Van der Stappen was born of legitimate, Catholic, and honorable parents in the suburb of the city of Antwerp, in the parish of Saint Willibrord, in the civil province of Antwerp, in the Archdiocese of Mechlin, and having surpassed the forty-seventh year of his age, resigned from his position as Master of Ceremonies of his Eminence, the Archbishop, and also from his duties as a director of piety and of the Sisters of Charity, having been appointed as a professor of sacred liturgy and Gregorian chant in the archiepiscopal seminary. He had previously been a Canon, and until now, a Canon Capitular of the Metropolitan Church. The titular Episcopal Church of Arsinoe, under the Archbishop of Ozyrynchia, became vacant due to the translation of the Reverend Peter Mary Osouf to the Metropolitan See of Tokyo, with the favor of the Reverend John A. Boneo, a priest of the Bonearense, who was also appointed as an Auxiliary to the Reverend Leo Frederick Aneyros, Archbishop of the Most Holy Trinity of Buenos Aires. The Reverend John Boneo was born of legitimate, Catholic, and honorable parents in the city of Bonearense, the capital of the Republic of Argentina, and having surpassed the forty-eighth year of his age, he resided in Rome, at the Pontifical Latin-American College, where he devoted himself partly to studies, and partly completed his curriculum in his homeland, and having served as a prefect of humanities, rhetoric, and successively, moral theology, he undertook the visitation of rural parishes in the absence of the Archbishop, and performed the duties of Defender of the Marriages, Provisor, and General Vicar in spiritual matters. The titular Episcopal Church of Tiberiopolis, under the Archbishop of Laodicea, became vacant due to the death of the Most Reverend Eusebius Semprini, the last Bishop of that See, who died outside of Rome, with the favor of the Reverend Anthony Espinoza, a priest of the Bonearense, who was also appointed as an Auxiliary to the Reverend Leo Frederick Aneyros, Archbishop of the Most Holy Trinity of Buenos Aires. The Reverend Anthony Espinoza was born of legitimate, Catholic, and honorable parents in the city of Bonearense, in the Republic of Argentina, and having surpassed the forty-eighth year of his age, he was associated with the students of the Pontifical Latin-American College in Rome, having recently been awarded a doctorate in sacred theology, and having performed the duties of a visitor of rural parishes, and until now, as a Canon of the Chapter of Bonearense, and as a Provisor and General Vicar of that Archdiocese. The titular Episcopal Church of Anthedon, under the Archbishop of Caesarea, became vacant due to the death of the Most Reverend Louis

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Gay, the last Bishop of that See, who died outside of Rome.

[*Latin ed. p. 5*]

FROM THE ACTS OF CONSISTORY 5, concerning the deceased, with the favor of the Most Reverend, William John Carter, Priest of Serena in Chile. The Most Reverend William John Carter, born of legitimate, Catholic, and honorable parents in the city of Serena in Chile, having reached the fifty-first year of his age, and previously awarded a doctorate in sacred theology, jurisprudence, and political science, having been examined for the pro-synodal office, and having previously resigned from the dignity of Canon of the Metropolitan Church of Saint James of Chile, is now appointed as a member of the theological faculty at the Chilean University. The Monastery of the Blessed Virgin of the Sea-Star, with the attached Priory of the Blessed Virgin Mary of Augsburg the Greater of the Cistercian Order in Switzerland and Austria, is vacant due to the death of the Very Reverend Maurus Kalkum, the last Abbot of that monastery, and of the Prior, who also died outside the Roman Curia, with the favor of the Very Reverend Lawrence Wocher, Priest of the Cistercian Order and expressly professed, having been elected by the Chapters and monks residing in the Monastery of the Blessed Virgin of Augsburg the Greater, according to custom, and having been confirmed by the benevolence of HIS HOLINESS, in accordance with the decree of the Sacred Congregation for Consistorial Affairs, which was approved by the aforementioned HIS HOLINESS. The Very Reverend Lawrence Wocher, formerly called Anthony, was born of legitimate, Catholic, and honorable parents in the city of Brig, in the diocese of Brixen and the province of Austria, now called Vorarlberg, and having surpassed the thirty-seventh year of his age, is appointed as Master of the gymnasium, archivist, and librarian of his Order, having written several works for Catholic periodicals, and having been appointed Professor of the College of Saint Bernard for the instruction and education of boys, and having previously resigned from the office of Major Cellerarius of the Convent of the aforementioned Abbot, he has also been granted the office of Apostolic Notary by HIS HOLINESS. The Church of Cayes in the Republic of Haiti in the West Indies, which was elevated to the dignity of a cathedral by Apostolic Letters entitled "Author of the Christian Religion" under the seal of lead, issued on the fifth day before the Kalends of October, 1861, by the Most Holy Pope Pius IX, and which had been vacant since its original establishment, is now filled with the favor of the Most Reverend John Mary Alexander Morice, Priest of the diocese of Vannes. The Most Reverend John Mary Alexander Morice, born of legitimate, Catholic, and honorable parents in the town commonly called Loyat, in the diocese of Vannes, and having surpassed the forty-first year of his age, is assigned to the clergy of the archdiocese of Port-au-Prince, where he received the order of the priesthood, with the consent and presence of the Bishop of

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Vannes. For many years, he exercised the office of parish priest, and also served as General Vicar and Administrator of that Metropolitan Church, and of the dioceses of Gonaives and Cayes, during their vacancies, and also performed the duties of a Canon in that ancient See for a long time. The titular archbishopric of Synnada is assigned to the Most Reverend Peter Raphael Gonzalez, Bishop of Ibarren, who is promoted to that same archbishopric and appointed as coadjutor with succession to the Most Reverend Joseph Ignatius Ordoñez, Archbishop of Quito in the Ecuadorian territory of South America. The Most Reverend Peter Hector Coullié, Bishop of Orleans, is appointed to the Metropolitan See of Lyons. Provision is made for the Metropolitan See of Carthage with the person of the Most Reverend Bartholomew Clement Combes, Bishop of Constantinople. The Most Reverend William Joseph Labouré, Bishop of Le Mans, is appointed Prefect of the Metropolitan Church of Rennes.

[*Latin ed. p. 6*]

6. FROM THE CONSISTORY ACTS:

The Reverend Father Francis Hautin, Bishop of Ã□vreux, was appointed Archbishop of Chambéry.

Subsequently, Our Most Holy Lord made provision for the following sees, which had been previously provided for by Apostolic Letters in the form of a Brief: The See of Dubuque, recently elevated to the rank of Metropolitan, was conferred upon the Reverend Father John Stennessy, Bishop of the same Church. The Reverend Father John Joseph Kain, Bishop of Wheeling, was promoted to the titular Archiepiscopal Church of Ozyrynchus. The Reverend Father Dominic Clemens Soulé, already Bishop of Reunion and currently Apostolic Administrator of Guadalupe, was adorned with the Archiepiscopal title of Leontopolis. The Archbishop of Columbus resigned, the Reverend Father Andrew Theophilus Mélizan, Bishop of Jaffa. The Reverend Father Placid Louis Chapelle, Bishop of Arabis and perpetual Coadjutor to the Archbishop of the Congregation for the Propagation of the Faith in America, was made Archbishop of Sebaste. Provision was made for the Reverend Father Julius Tonti, Bishop of Samos and Apostolic Delegate to the Haitian Dominican Mission, for the Archiepiscopal Church of Sardinia. The Reverend Father Mauritius Burke, transferred from Cheyenne to the See of St. Joseph in America, was appointed. The Reverend Father John Mary Alexander Morice, Apostolic Administrator of the See of Les Cayes, newly established today, was appointed. Provision was made for the Reverend Father Patrick Delany for the Church of Laraud, as perpetual Coadjutor to the Archbishop of Hobart. The Reverend Father Walter Staal, of the Society of Jesus, was appointed Apostolic Vicar for Batavia, and the Church of Mauritius was conferred

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upon him. Provision was made for the Reverend Father Albert Bitter, Apostolic Vicar of Sweden, for the Church of Dolichen. The Reverend Father Ignatius Ibaner, of the Order of Preachers, was brought to the Church of Amyzon, as Apostolic Vicar for Amoens. The Reverend Father Alexander Cardol, Bishop of Limyra, previously chosen as perpetual Coadjutor to the Apostolic Vicar in Southern Burma, resigned. The Reverend Father Aloysius Lasagna, a Salesian missionary in Brazil, was appointed to the Church of Tripoli. Then, the aforementioned Cardinals were granted the pallia. Furthermore, provision was made for the pallia for the Churches of: Venice, Ferrara, Rho, Lyon, Chambéry, Carthage, Dubuque, and Columbus. Finally, the title of St. Alexis was assigned to His Eminence Di Pietro; St. Eusebius to His Eminence Sanz and Fores; and the Most Holy Trinity on Mount Pincio.

[*Latin ed. p. 7*]

FROM THE ACTS OF THE CONSISTORY: 7. From Meignan; St. Mary's and St. Francis in the Roman Forum, by Thomas; Sts. Nereus and Achilles, by Galimberti; Sts. Sylvester and Martin in the Mountains, by Vaszary; St. Quiricus of Iulitta, by Graniello; and St. Bernard of the Baths, by Sarto.

FROM THE 3rd MEETING OF THE CONGREGATION OF THE COUNCIL OF SCEPUSI: REGARDING A MARRIAGE DISPENSATION. On March 18, 1893. Session 24, Chapter 1, Concerning Marriage. Charles Ferko, a machine worker, aged 24, was joined in marriage to Mariae Dulovics on November 21, 1887, who at that time had reached the age of 21. The marriage was celebrated before the parish priest and witnesses, with all the rites observed according to the form of the Holy Council of Trent, in the parish church of the place called Schavnick, within the boundaries of which both spouses were born and resided at that time. However, as subsequent events demonstrated, this marriage was unfortunately not blessed. From the very first days of their union, discord, quarrels, and disputes occupied the marital home, especially on the part of the wife; and, according to the husband, the wife's aversion grew to such an extent that, at times, his own life was brought to the brink of danger by her. Consequently, after a period of interrupted cohabitation, on July 11, 1888, as reported by the Bishop of Scepusi, Charles Ferko "humbly petitioned the Consistory of Scepusi, requesting the assistance and protection of the same Consistory, because his wife, Maria, neither wishes to live peacefully with him, nor does she consent to the consummation of the marriage, nor does she wish to render to her husband that which is due in marriage." The following is a SUMMARY OF THE CASE, presented to the Consistory by Charles Ferko.

[*Latin ed. p. 8*]

8. ZIPS. Having taken this vow, so that both he and his wife, Mary, born

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Dulovics, might be summoned before the sacred court for the purpose of attempting reconciliation, a summons was issued, and the date of October 16, 1888, was set as the deadline for both parties to appear, and the summons was duly served. For this appointed date, neither party appeared before the sacred court; however, on the following day, Charles Ferko, the husband, presented himself to me, the official and hearing judge, rejoicing and reporting that his wife had returned to him, and that they were living together peacefully. However, this reconciliation of the hearts and resumption of peaceful cohabitation proved to be fleeting and brief; for the unfortunate husband, Charles Ferko, submitted a new appeal to my Consistory on February 20, 1889, in which he bitterly lamented the continued and uninterrupted alienation of his wife from him, which had increased to such an extent that his wife had not hesitated to threaten him with legal action, should he dare to approach her with a request for the fulfillment of marital duties. And other matters, which the Bishop wrote to the Sacred Congregation, requested that, at the end of July 1889, relief be granted to the miserable Charles Ferko through a dispensation concerning the marriage that had been validly contracted but not consummated. Immediately, a response was sent, instructing that the process be properly carried out. But the matter lingered for a long time, first because the delegated judge attempted, albeit unsuccessfully, to effect a reconciliation of the parties; and then, because the woman was absent, having gone to Vienna in the meantime, and her whereabouts could not be quickly ascertained. Then, however, all the necessary acts were duly completed and transmitted to the Sacred Congregation in June 1891. From these documents, it is clear that Charles Ferko was questioned twice by the judge of Zips, and Mary Dulovics by the delegated judge of Vienna; and that both parties, as well as certain witnesses summoned by the court, testified under oath before the court of Zips. Furthermore, it is established that an examination of the body of Mary, who had in the meantime returned to her family, was carried out in Leutschovia, by two midwives of proven skill, with her mother acting as a chaperone.

[*Latin ed. p. 9*]

ZIPSIEN. 9. Concerning a Synodal Disputation. To obtain a dispensation from a marriage simply ratified, he says, the consummation of the same must be excluded, not in any way, but with morally certain arguments, because once the consummation has been admitted, considering the evangelical law that what God has joined together, man must not separate, an indissoluble union results. Therefore, in the matter at hand, a diligent inquiry must be made to determine whether consummation has occurred, or not. And certainly, if the reason for lack of consummation were present, I would eagerly seize upon it, and with all diligence I would examine it, so that the danger might be removed, lest Charles Ferko aban-

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don the Catholic Religion, and give a name to Lutheranism. For in that case, there is no will to preserve chastity, no inclination, and therefore, only among Protestants could a new marriage be entered into, while in the Catholic Church, he will never obtain indulgence, if the marriage has become indissoluble through consummation. But this reason, by which the lack of consummation of the marriage is proven, which they desire, is not found; and it will truly be seen to be lacking from those things that are brought forward. Certainly, the consummation of the marriage in Cattolica, being open, evident, and clearly ordered by nature, does not occur here, but neither does the lack of consummation, which would render the marriage dissoluble. And the Bishop of Zips, to whom it is most important to remove Charles from embracing Lutheranism, in a letter to this Holy Congregation, refrains from making any judgment. For he says: having carefully examined the acts of the canonical process, I do not find that which is required, namely, certainty regarding the lack of consummation of the marriage... I remember the Catholic doctrine concerning the indissolubility of marriage in the Church of Christ... I submit the entire case to the Holy Congregation of the Council for most devout judgment. From these words, a very strong presumption is drawn that the marriage either has been consummated, or that the lack of its consummation is uncertain. Lack of consummation is held to occur when the penetration of the hymen and the effusion of semen within the womb are absent. If, however, a simple...

[*Latin ed. p. 10*]

10. In the case of *Scepusien*, there is a claim of non-consummation, and the deposition of seed is desired; the consummation is uncertain. Although some have affirmed that a simple penetration constitutes a perfect union, this is not the case, as taught by D. Th., for however much anyone may invade or violate the chastity of the other, unless the mingling of seed follows, the union is not consummated, *suppl. p. 55, a. 4, ad 2*. The non-consummation, however, can be proven by three grounds: namely, by the sworn testimony of the spouses, and of witnesses, and also by the examination of the bodies, whether the signs of lost virginity are present or not.

Indeed, if we consider the sworn affirmation of Caroli Ferko, and simply attend to the words, without further inquiry, we would immediately conclude that the marriage was, in fact, non-consummated beyond any doubt. But upon closer consideration, Caroli's testimony involves a contradiction, and when compared with the revelation of his wife, the consummation remains doubtful and uncertain. Here is the deposition of Caroli Ferko. On the first night of marriage, he affirms that Mariam refused the consummation of the marriage, and immediately accuses his wife of a lack of affection. For, on the following day, while preparing to go to church, she, contrary to custom, invited another man, showing contempt for her husband, and uttered these words against him: "This abominable man con-

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tinually pursues me, and I cannot have any peace because of him." From that time, Caroli states that his wife did not even allow him to touch her body. Then Caroli departed, and it is to be noted that, far from weeping over this departure, Maria said, "I wish he would break his neck, and that the devil would take him away." Such hatred had she conceived, that she even attempted to suffocate him, and, failing in that wicked attempt, she was forced to seek another way to certainly rid herself of him. She said that she was determined to either kill herself, or (her husband). This woman was driven by such detestable hatred, and she fostered the desire to be freed from her husband. If these statements are taken as they are spoken, they suggest a presumption of non-consummation of the marriage. For if chastity itself is often alienated by carnal intercourse, how much more so, not only by simple aversion, but by inexplicable hatred?

[*Latin ed. p. 11*]

ARGUMENT. 11. These [facts] are inconsistent with those which Charles revealed later, and which involve an evident contradiction; for I immediately concluded that the marriage had remained valid. But the following events, which arose from this conclusion, led me astray. He said that he had gone away. But the wife, who pursued him with such intense hatred, even to the point of uttering imprecations against him, proceeded to remain with him. When invited to perform the duties of a good wife, she again refused, adducing, as usual, the customary and monthly impediment of women. However, according to the testimony of Charles himself, the wife's aversion to him no longer appeared; for he said later that he had been joking and had finished with her. Not only did this aversion cease, but she gave signs of special affection. She admitted to embraces, kisses, and caresses, although she did not wish to come to bed. These words are again found in Charles's confession. How these things can be reconciled with the aversion of spirit which Mary conceived for her husband, I confess I do not know. Therefore, either I do not understand, or the wife's journey to Charles, and her voluntary approach to her husband, along with the things that were communicated to them, which, except for the words from the mouth of Charles and his testimony, introduce doubt and uncertainty, consequently, show the confession of the same, although sworn, to be wavering, or at least suggest it. And indeed, from the very beginning of the marriage, the wife conceived such an aversion for her husband that she would not even allow him to see her, and this aversion of spirit never ceased, but increased day by day; therefore, what sudden and unexpected change? To the point of showing special signs of affection to her husband, such as embraces, kisses, and caresses, which are considered by all to be signs of love? At that time, she did not even allow him to touch her body (as far as I know), and in the same place, and almost at the same time, such a change of circumstances occurred that it would seem to

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provide evidence that complete intercourse had taken place between them. Charles denies any such intercourse, and later, forgetting his revelation, admits to kisses, embraces, and caresses. But embraces, kisses, and bodily caresses, although they do not necessarily suggest violent intercourse, do suggest and imply something. And the suspicion would become violent, and...

[*Latin ed. p. 12*]

12. The true consummation would be demonstrated if other supporting evidence were presented in the form of facts. Suarez, *lib. IO*, *disp. IO*, n. 46-47. But although from those actions, in some way and remotely, the force of the marriage bond might not be proven to have been consummated, at least the sworn testimony of Charles, which is neither sincere nor entirely truthful, would not be uttered by any upright man. He denies any penetration, and the fact, and admits embraces, kisses, and caresses. A more evident contradiction cannot be. And since he is not a proponent of truth, because he presents contradictions, does not this mark of falsehood taint his entire testimony? This contradiction becomes even more apparent when what Charles has testified is compared with what Mary, having been sworn, has testified. She also affirms that the marriage was not perfectly consummated. In this, the assertion of both is concordant. She also does not deny that the marriage was not consummated on the first night of marriage, because she lacked the inclination for it. But she continues, saying that afterwards, they did consummate the marriage several times. She explains how this happened. "We were joined, and then he emitted semen outside of my womb... and this happened about four times... She affirms that it always happened this way. "We were joined, and then my husband emitted semen outside of my womb, because I had told him that I did not want to have children from him." Here again, a contradiction arises with Charles' testimony. The defender of the marriage, noting the contradiction, opposed Charles, saying, "Charles, how can I reconcile what Charles has asserted with the statements of Mary?" He responded that the first time he had said it, and he now asserts again, that whenever he wanted to introduce his member into her genitals, his wife always repelled him... "I have often tried to complete the conjugal act, but I say, according to the voice of my conscience, that my genitals never penetrated the natural genitals of my wife." Indeed, both, in their concordant confession, affirm that the marriage was not consummated in the way in which the union of Christ with the Church ought to be expressed, but Mary admits the penetration of the female organs, which Charles denies. Both are said by witnesses to be pious, religious, and incapable of lying; to whom should credence be given? — To

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Mary, who admits the penetration.

[*Latin ed. p. 13*]

SCEPUSIEN. Is he alleging, then, that Charles denied her [conjugal relations]? — I believe that Mary should be believed, provided that we have seen Charles say contradictory things beforehand, unless someone prefers to say that Mary is prone to exaggeration, given the denial of the consummation of the marriage, which is sufficient to free her from a husband who desires her. Charles himself, as one of the witnesses affirms, needs a woman who will attend to and advise him in his affairs. But I would not wish to think ill of either of them, and I would gladly refrain from offering any judgment on their intentions, unless reason dictated otherwise. And indeed, the denial of penetration by Charles seems to have been dictated by the necessity of more easily obtaining a dispensation, since, on the contrary, in a certain case, when he was hoping to have offspring, he revealed his intentions in a different way. When his father-in-law asked him how he was getting along with Mary, he replied with a smile, saying that he was doing very well, and that, indeed, after a year, he could receive the sacraments. These words clearly imply that he had had perfect relations with his wife, or that he had hoped for them sooner or later; otherwise, they would be meaningless. It would be incongruous to say that he intended to deceive his father-in-law. It would be a false assertion to say that he preferred to conceal domestic and marital discord with his wife in order to provide his father with comfort, and to avert the cause of his affliction. For why did he not hesitate to reveal the same discord to others, the rumor of which could reach his father's ears?

But, setting these things aside, I return to the matter of penetration, which I do not doubt occurred, and I pay little or no attention to Charles' denial of access to his wife, because he has not hesitated to offer contradictions in his confessions. But, having admitted to penetration, both spouses deny the perfect union, and Mary confesses that Charles sowed seed outside of her. Therefore, someone might say that the perfect union did not take place, and that the spouses were not made one flesh. Consequently, no conclusion can be drawn from that penetration. This difficulty, arising from the confession of both spouses, makes the decision in the matter of fact less easy.

[*Latin ed. p. 14*]

14. SCIENTIA. Hoc non poteva essere trascurato. Pertanto, per rispondere, dico: se potesse essere provato che il seme maschile fosse stato completamente versato al di fuori del vaso femminile, senza dubbio, non si sarebbe verificata nemmeno l'ombra della consumazione coniugale. Ma da dove si può ricavare l'argomento che dimostri che la consumazione non sia avvenuta? Se Carlo, nella sua testimonianza giurata, si fosse dimostrato

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un amico della verità, e avesse confessato che il seme fosse stato versato al di fuori del vaso, si dovrebbe dargli credito. Ma poiché sorgono dubbi fondati riguardo a ciò che lui stesso ha affermato, siamo incerti, e la ragione ci impedisce di acconsentire ciecamente alla sua affermazione. Infatti, se nega la penetrazione, tanto più negherà l'emissione del seme, anche della minima parte, e di conseguenza, la consumazione dell'atto coniugale? La moglie, invece, confessa di aver avuto un rapporto, ma afferma che è stato in modo onanistico. Ma se ammette la penetrazione, è credibile la sua affermazione che il seme sia stato completamente versato al di fuori del vaso? Non potrebbe essere che almeno una piccola parte dello sperma, che è sufficiente per considerare l'atto coniugale consumato e i coniugi divenuti una sola carne, sia stata ricevuta nel vaso femminile, senza che la moglie ne fosse consapevole? Ma ritengo che ciò possa accadere, e ciò impedisce di dire che il matrimonio è stato, in realtà, consumato. Come osserva saggiamente Zacharias in merito, nel libro III, titolo 1, capitolo VIII, numeri 13, 14 e 15, può accadere che la donna, nell'esercizio delle funzioni matrimoniali, non senta nemmeno l'espulsione del proprio seme, che non avviene mai senza una qualche sensazione, sebbene possa non esserne consapevole, perché la natura vuole che in tutte le espulsioni ci sia una certa sensazione, affinché non avvengano in modo involontario. Ora, se questo può accadere con il proprio seme, tanto più può accadere con il seme dell'uomo da lei ricevuto, almeno quando è in quantità esigua. Questo accade, perché, come afferma lo stesso Zacharias, le diverse e gradualmente distinte sensazioni che si provano nell'esercizio dell'atto coniugale, a volte, una delle due è così grande che ne oscura l'altra. Aggiunge un esempio tratto da un'esperienza. Quando all'occhio si presentano più cose visibili, quella che è più eccellente e vivida, oscura la vista delle altre. Inoltre, nell'esercizio dell'atto coniugale, si verificano molte azioni, la natura...

[*Latin ed. p. 15*]

SCEPUSIEN. 15 [There are] exciting [things], and although a man's seed, a woman feels [she] needs, yet if the quantity is very small and meager, the pleasure and sensations accompanying its reception are surpassed by more vivid pleasure and sensation, so that the excitement of the same remains somewhat obscured. Therefore, when the wife of Charles says that the man's seed was spilled outside the vessel, it cannot be understood to mean its entirety, as if no part, not even the smallest, had been drawn into and received by the vagina. Perhaps someone will say, these words are [mere] words, and nothing more. Indeed, how can the reception of a small quantity of seed be made credible, when the woman's confession contradicts this reception? I believe that it can be gathered from the records of this case that Mary Dulovics lacked the mark of virginity. And although, speaking familiarly with a friend, she boasted that she was untouched, and that she could wear the certain mark of virginity, I believe

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she asserted this because a strong conviction was fixed in her that the intercourse with Charles had been imperfect and incomplete. However, she did not deny that intercourse had taken place: for she said, "We were joined." And if she had dared to deny the intercourse, it would most clearly result from an examination of the body, as indeed happened; for with the support of the obstetricians and doctors, the same [loss of virginity] is more clearly confirmed. Indeed, not only the experts, but even she herself, declare that she had intercourse, but a complete and perfect one, as nature requires, so that the possibility of conception and generation of offspring may arise. The first obstetrician affirms, under oath, that Mary Dulovics is no longer a virgin, although she has never been pregnant, considering the narrowness of the hymen. The reason for this is that which provides moral certainty, because the hymen is no longer intact, but only small remnants of it remain. A second obstetrician gives similar testimony, and adds that the intercourse was not fruitful, as can be deduced from the narrowness of the hymen, but she asserts that it was complete and perfect, as required by nature, so that the effect intended by it may emerge, namely conception and generation. If credence is to be given to this, as to those who are not ignorant, but experienced, then Charles and Mary have, at times, become one flesh.

[*Latin ed. p. 16*]

16. BOTH physicians hold the same opinion. Both readily agree that Mary Dulovics had a perfect and complete union, based on the customary and unavoidable foundation, namely, the absence of the hymen; and indeed, the absence of the hymen is truly evidence of defloration; and that the union was complete, and the marriage consummated, is what the Holy Congregation of Councils is accustomed to conclude. But to whom should this defloration, and the absence of the hymen, be attributed, if not to him to whom only the vestiges remain? Certainly, either to Charles, or to a third party. But I do not dare to attribute Mary's defloration to a third party, unless strong and robust evidence is presented, which would demonstrate that she is guilty of adultery. For Mary can certainly be accused of levity and inconstancy; for she married Charles, moved by love, and shortly thereafter, that fervent love conceived in her heart was turned into aversion and insurmountable hatred. However, this levity did not proceed so far as to lead her to a third party, and to engage in an improper relationship with him. At least, no evidence is presented by which she could be accused of this crime, and she is innocent of it.

OPINION OF THE CANONIST. The consultant states: "We do not here grant causes for granting a dissolution from justice." For although it may be said of a woman, in the judgment of a man, "that she is probably not a perfect woman," and other similar things; nevertheless, the findings emerging from the examination of experts remove all doubt on this matter. But

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what reasons are there for granting a dissolution for the sake of mercy? These are: aversion of affections, impossibility of reconciliation, an attempt on the life of the husband by the wife, danger to the faith and incontinence. The consultant proved that these grave reasons are present, through the testimonies of witnesses, through the report of the bishop, and through the confession of the spouse. Proceeding to inquire whether the marriage was consummated or not, he said that he was inclined to believe in its lack of consummation. Indeed, all external circumstances, so to speak, undoubtedly favor this opinion. For the husband said: "I wanted to consummate the marriage with my wife..."

[*Latin ed. p. 17*]

ZIPS. 17. Even with a slight inclination, but whenever I have wished to bring my virile member to the very genitals of my wife, my wife has always repelled me. In the voice of conscience, she cries out, "My genitals have never been penetrated by the natural means of my husband." "And I, even now, have not fulfilled my conjugal duty with my wife, have not consummated it." The woman, although depicted as being seized by the greatest horror against the very attempt at consummation, "is filled with the horror of consummating the marriage," as the Archbishop of Zips says, "with her legitimate husband... so that, according to her statement, she would threaten suicide if he dared to urge her to fulfill her conjugal duty"; nevertheless, it is she who, when questioned judicially about this matter, first mentions the word "consummation." However, she later reveals, when prompted to explain the matter, that she did not know what she was saying at the time, and the true assertion of non-consummation is reduced to the very words of herself. The Ordinary of Zips is astonished when he is forced to say, after the judgment of expert physicians, that the marriage in this case does not appear to be certainly unconsummated. "Indeed, on July 20, 1889, in my humble opinion, I fervently prayed to the Most Holy Lord to graciously grant the grace of dispensation in the marriage, which was said to be valid but not consummated. However, from the acts of the canonical process, as I have carefully examined them, I do not find the certainty required regarding the non-consummation of the marriage... remembering the doctrine of the Catholic Church... although I have no hope of reconciliation between the parties, indeed, I fear that Charles Ferko, who is desired by his wife to be separated, will defect from the Catholic faith; I submit the entire case to the Most Holy Congregation of the Council." Regarding the testimony of the seventh witness, all are perfectly unanimous in affirming the probity and piety of the parties, and thus, as they expressly and primarily state, the marriage in question has not been consummated, and in such a way that the acts which were sometimes performed with that purpose in mind were imperfect and useless.

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Acta, Vol. XXVI, page CCCI. 2.

[*Latin ed. p. 18*]

18. Among those, however, who were presented as witnesses to support the defender of the marriage, and who numbered five, was Susanna Bader, who has this to say, and who had declared by Mary, shortly before she departed from Poprad and intended to leave her husband forever, "that she could, if she left him today, place a virgin's ring or crown upon her head, remaining a virgin." From all of this, it is clear that a moral argument arises in favor of not consummating the marriage in this case. Furthermore, this urgent matter teaches that the bond of marriage has never been relaxed by the Holy See, as Spondanus, in his *Annales Ecclesiasticos*, for the year 1599, demonstrates, and we gather from the practice of the Sacred Congregation that, in the famous case of the dissolution of the marriage, both valid and unconsummated, between Prince Sigismund of Transylvania and Maria of Austria, during the time of Clement VIII, as well as in Frisingen, in the year 1817, in Gandaven, in the year 1820, in Gandaven, on December 17, 1843, in Paris, on March 28, 1851, and on June 26, 1855, in Csanadien, on June 6, 1863, and most recently in Wiadislavien, on June 15 and December 14, 1889. However, what is the judgment to be given when this argument of expert physicians is raised as an objection? We know that presumption, even if forceful, must yield to truth. *De Re Du. et Can.*, Book 2, Chapter 1, and Canon 27; *Dict. Dominus*, Book 3, Chapter 1, and Canon 32; *Proposuisti He Probationibus*. This is what appears to be the case in our situation. Indeed, this judgment of the physicians is raised, which, at least at first glance, seems to be based on a flawed premise, especially considering the weight that is given to such opinions in these cases by Doctors of Canon Law. See De Luca, *De Iudiciis*, discourse 27, number 20; Fuscum, Sánchez, and others. Nevertheless, if this judgment is examined more closely, it seems to me to be flawed in a substantial way, both in law and in merit. The flaw is that its conclusion appears to be more pronounced than the premises upon which it is based; not that this conclusion could not have been reached by them, but rather that it does not truly seem to be contained within the premises. The words with which this judgment is pronounced lack substance, and only the barest remnants of reasoning are visible.

[*Latin ed. p. 19*]

SCEPUSIEN. 19. The foundation of this assertion rests upon the testimony of two expert midwives, who have declared and established that Mary Ferko was defiled, that is, that she had intercourse with a man, and that MARRIAGE WAS CONSUMMATED. The remaining words, interspersed with the aforementioned statements, will be presented later, from which it can also be concluded that this judgment is not immune

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from any contradiction. It is said, therefore, that the hymen no longer exists. The only conclusion that could be drawn from this, at most, is that Mary was defiled. I say, at most, because it is not uncommon for women to be without a hymen from birth. Barzellotti, book 1, chapter IV, paragraph 37. But in our case, visible remnants are present, therefore it was present. However, could such a hymen have been destroyed only through intercourse? Barzellotti, in the aforementioned passage, states that it could also be destroyed in other ways. Therefore, before drawing this second conclusion: that she had intercourse with a man, would it not have been appropriate to conduct further investigations into the woman herself, and to inquire shrewdly of the woman herself? What is known about, for example, her habits and customs, about her illnesses and other circumstances of her life? What is known about her particular familiarity with the maidservant Anne Zavorszky, who later went to America? I say, familiarity, which aroused such admiration among the inhabitants of Schavnik, that almost all witnesses testify that "they knew Mary... this maidservant Anne Zavorszky, who, however, emigrated to America at that time, was very fond of her, and that she was accustomed to embrace and kiss her, and to give her various gifts." Surely, these things could not be unconnected with those things that are repeatedly reported by the same Charles? After he had said: "I believe that she may have some physical cause in her body, for which reason she does not want to admit a man," he continues: "Once, she herself said: 'I will not reveal my thoughts to anyone, but I cannot help it.'" Also, that she could not admit a man's embrace. At another time, she wept greatly; when I asked her why she wept, she replied: "She is afflicted by the pain that I love her so much, but that she is not to blame, that others will be responsible for her."

[*Latin ed. p. 20*]

20. SCEPUSIEN. But let us suppose that this hymen could have been destroyed by intercourse. Therefore, was the marriage consummated? It could not have been destroyed except by Charles Ferko, who stated, "In the voice of conscience, I say that my genitals never penetrated the natural parts of my wife." It could not have been destroyed except by a man who, whenever he attempted it, was always repelled by his wife. Again, how could Charles Ferko, having attained, as I believe, the full vigor of age and strength, and with a reluctant wife, have achieved this, when, according to the very words of experts, the entrance to the vagina (of the wife) is described as being so narrow that it is only passable by a single finger? Furthermore, 25 months after the definitive separation of the spouses, an examination of the woman was made; if the hymen had been torn by Charles Ferko, there would no longer have been any mention of the small remnants of it, but rather of the mushroom-shaped folds, which are the anatomical name given to these remnants, which, after some time, slightly

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swell and take on the form indicated by that name. Barzellotti, loc. cit., n. XXXVII. Surely, even with this form still present, one should have suspected and considered it appropriate to institute some inquiry into the time when Mary was separated from her husband? But let us suppose that Charles Ferko destroyed the hymen through intercourse; would this mean that the marriage was consummated? As long as the spouses are not united in flesh, the marriage is not consummated. This means that, whatever may be the case regarding the hymen, the seminal fluid must be expelled during sexual intercourse and directed through the female vagina up to the mouth of the uterus, n. XVIII: "For this," the eminent author continues, "the aptitude of the woman is certainly necessary; but what if the vagina cannot, or does not, expand to allow it to enter as far as is necessary? There will be a fault on the part of the woman, and a true impediment, or a reason by which the marriage certainly could not be consummated." Barzellotti, loc. cit. Now, we do not believe that the vagina in our case could not have expanded; rather, we believe that it did not want to, and in fact, it was not expanded. In addition to what has been stated above from the proceedings: "I have also had intercourse with my wife, but whenever I have wanted to insert my virile member into her genitals, my wife has always..."

[*Latin ed. p. 21*]

SCEPUSIEN. 21. – We were joined, and then the husband spilled his seed outside of my womb, because I told him that I did not wish to have a child from him. – I know that his seed never entered within my womb.

Furthermore, what else do they intend by the words of the experts themselves who examine [women]? The larger lips, adhering, completely close the opening; the smaller lips also adhere. Especially when, according to Barzellotti, it has been sufficiently proven that the use [of certain methods] induces a noticeable change in the parts serving generation. "In virgins, the opening formed by the closely adhering larger lips represents a simple line; in contrast, in those who have engaged in intercourse, two lines are observed, representing a long ellipse." In virgins, the larger and smaller lips are tense and resistant; in others, they are relaxed and flaccid. In virgins, the inner part of the larger lips exhibits a vivid color of flesh; in others, especially in those accustomed to intercourse, it is dark [brownish-dark]. Barzellotti, loc. cit., n. XLII.

Indeed, if the words of the experts: "The larger lips, adhering, completely close the opening; the smaller lips also adhere... the vaginal membrane appears slightly red and covered with white mucus, the vaginal opening is narrow, only passable by a single finger," are compared with the accounts given by physicians, should not Mary be considered more likely to be unchaste than chaste? The argument grows stronger from the absence of any trace of a previous pregnancy: "The abdomen shows no signs of a

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previous pregnancy," says the physician. It is also said by Barzellotti, loc. cit.: "There does not exist any other noticeable difference, if the intercourse was interrupted; because often such parts regain their own elasticity, vigor, and color in young people." For us, these last words are not important either for refuting or proving the consummation of the marriage between Charles and Mary, but only for revealing the truth in a matter of the gravest importance; therefore, they are not so important that we should believe, based on the above, anything further to be inferred as a positive or negative answer to the question.

[*Latin ed. p. 22*]

22. SCEPUSIEN. It is necessary to be. What we seem to have sufficiently indicated throughout this discourse is what must be considered. OBSERVATIONS OF THE DEFENDER OF MARRIAGE FROM OFFICE. In the case of marriage, Charles Ferko, between himself and Mary Dulovics, on November 21, 1887, esteemed consultants, a theologian and a canonist, consider that there is no impediment in law to the consummation. For all the evidence points to this: namely, both Charles and Mary swear that the marriage was imperfectly consummated, indeed, Mary even explains the loss of her physical virginity: "We were joined, (so she says), and then the husband spilled his seed outside of my womb, because I told him that I did not want to have children from him." Furthermore, witnesses under oath, as well as witnesses from office, declare the spouses to be worthy of faith with unanimous consent. These arguments are always required in matrimonial cases, whether concerning nullity or dispensation, as is well known, "so that, with greater diligence, the marriage may be dissolved, which is of UTMOST IMPORTANCE." However, by themselves, they do not constitute proper proof. If judges were to be satisfied with arguments of this kind, the matter of all marriages would be settled. Indeed, in no case, nor in questions concerning the poor, does a judge usually give weight to the confessions and oaths of those involved, even if a multitude of witnesses present them, who proclaim them to be worthy of all faith. Nor am I moved by chapter 5 of the *Frigid* and *malefic*, in which Celestine III states: "It is praiseworthy and fitting... You have inquired how much time should be granted to those who are NATURALLY FRIGID, in order to experience the nuptial union... and below. We, in the present consultation, believe that, from the time of the celebration of the marriage, if the frigidity cannot be proven beforehand, they should COHABIT FOR THREE YEARS; after which, if they still do not wish to cohabit, and if, according to the decree of Gregory, the woman has been able to prove by just judgment that the man cannot lie with her, she may take another. If he takes another, they shall be separated; but if both consent to be together, the man shall be with her, not

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as a wife, at least..."

[*Latin ed. p. 23*]

SCEPUSIEN. 23 should treat her as a sister. However, if both declare, and they have never known each other, with the seventh witness, either of relatives or of neighbors of good reputation (if relatives are lacking), having testified through sacred oaths that they have never been united in carnal union; then it seems that the woman may validly enter into a second marriage. But if he has taken another wife, then those who swore are held liable for perjury, and after having undergone penance, they must be compelled to return to their former marriage.

I have recited the aforementioned passage as it stands, because I have seen more than once lawyers arguing, although with a most unfortunate omen, that Pope Celestine III, in order to eliminate the danger of fraud and collusion, considered it sufficient that the seventh witnesses testify that such spouses are free from perjury and worthy of all trust, even when the confessions in which the spouses swear that they have not been united, are suspect. But the case presented by Pope Celestine III in the present passage is infinitely distant from our case, and from all cases in which the matter concerns a dispensation regarding a marriage that is valid but not consummated, as finite is from infinite. For the true reason that prevented the consummation of the marriage in the case presented to Celestine III was the husband's NATURAL IMPOTENCE, which the husband himself admitted. Therefore, the suspicion of collusion and fraud easily disappeared, because the husband, by his nature, would rather give his head than allow himself to be subjected to such a useless thing. But in our case, no detriment from collusion arises to the husband, because his potency is established beyond all doubt.

Then, the Pontiff warns that "if he [the man] has taken another wife, then those who swore are held liable for perjury, and after having undergone penance, they must be compelled to return to their former marriage." Spouses are not inclined to collusion when they know for certain that they are impotent, because if they enter into another marriage, they are compelled by many and by penalties to return to their former marriage. On the contrary, in our unfortunate case, both spouses are inflamed with the hope of replacing the unhappy marriage with a most blessed one, and of remaining together in it for life; and this is an invincible reason, so to speak, to...

[*Latin ed. p. 24*]

24. SCEPUSIEN. I say, they are urged on by the instigation of collusion. Furthermore, before Celestine III, there was discussion concerning absolute and natural impotence, "NATURALLY COLD"; concerning spouses who had attempted to consummate their marriage for THREE

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YEARS. Truly, with these matters established, witnesses of the seventh hand, that is, relatives and neighbors, testify that the spouses are true spouses, not only adhering to the spouses' own testimony regarding their religion, but also to the facts which the witnesses themselves have seen and heard during a time of no suspicion. How could it be that spouses would strive to consummate their marriage for three whole years with fruitless efforts, when one of them is afflicted with the vice of impotence from birth; and yet, nothing of this kind would have come to the knowledge of relatives and neighbors? On the other hand, in our case, the witnesses of the seventh hand have not reported anything, or almost nothing, that is relevant during a time of no suspicion. Finally, no sane person would easily believe that the most illustrious light of the Church and an eminent leader of the forum, Cardinal De Luca, nor the aforementioned chapter 5 concerning the Frigid, and likewise, not the best interpreter of any law, would not have known of the strict observance. Indeed, Cardinal De Luca holds this opinion, that, given the disposition of the spouses and a reasonable suspicion, the proof of the lack of consummation of marriage, if the woman cannot trust in the appearance of her own body, becomes almost impossible. "There was a great difficulty with me," as he says in *De Matrim.*, discourse 9, paragraph 15, concerning a widow who had already slept with a man, and therefore, I did not understand how the negative consummation of marriage could be proven, although it is not entirely impossible to justify, yet it seems too difficult, "A DIFFICULTY WHICH IN SOME WAY BLURS THE LINE WITH IMPOSSIBILITY." Indeed, if the oath of the spouses, together with the witnesses of the seventh hand asserting that the spouses are incapable of perjury and worthy of all faith, were sufficient to establish the lack of consummation of marriage, then the proof of the lack of consummation, not only for virgins, but also for WIDOWS WHO HAVE ALREADY SLEPT WITH A MAN, is always readily available. For the testimony of the seventh hand in such cases...

[*Latin ed. p. 25*]

SCEPUSIEN. Vingt-cinq raisons pour lesquelles les vierges ont autant besoin que les veuves. Cependant, à l'exception d'une seule cause concernant Burdigala, j'ai entendu dire que sept témoins ont attesté que des maris ont été marqués de la tache de la perjuration en induisant leurs épouses au mariage. Après ces prémisses, il a été supposé qu'il fallait dissiper le doute quant à savoir s'il faut consulter le Saint-Siège pour une dispense du mariage ratifié mais non consommé. RÉSOLUTION. La Sainte Congrégation du Conseil a délibéré et, le 18 mars 1893, a jugé qu'il fallait répondre : Négativement. ROMA FUNERIS Le 18 mars 1893. Sess. 25 cap. 13 De reform. Dans les Statuts du clergé romain, Chapitre IV, De iure funeris percipiendi (Sur le droit de percevoir les funérailles), après qu'il ait été noté que seules les funérailles ou seulement l'inhumation

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ne donnent à personne le droit de percevoir une partie des revenus au détriment de la paroisse, il y avait trois articles qui se tenaient ainsi : « § 35 : Cependant, aux églises titrées des Cardinaux, il appartient de percevoir les funérailles avec la paroisse, même si le corps n'y est enterré que. § 36. Par conséquent, quel que soit le funéraire célébré dans une église, si le corps est exposé ailleurs que dans l'église ou dans le titre du défunt, l'ensemble des funérailles appartient à la paroisse. § 37. Il doit également être compris que, si des funérailles sont célébrées dans une église titrée, même si le corps n'y est pas enterré, » Cependant, en 1887, Mon Vicaire Urbain, avec l'approbation de Son Eminence, a estimé qu'il était opportun d'adapter lesdits statuts aux circonstances changeantes, et les articles 36 et 37 mentionnés ci-dessus ont été supprimés, et le 35 a été modifié ainsi : « Cependant, aux églises titrées des Cardinaux... »

COMPENDIUM FACTI.

[*Latin ed. p. 26*]

26. In ROMA, if the funeral is to be held within a parish, and therefore half of the expenses always belongs to the parish, even if the bodies are buried in a public cemetery or elsewhere. "After several months from the publication of this new addition to the statutes of the Roman clergy, and precisely on November 2, 1887, the Most Reverend Anthony, Deacon of S. Mariae in Aquiro, of the Holy Roman Church, Cardinal Pellegrini, entered the realm of all flesh, and his funeral was celebrated in the collegiate church of S. Marci, within whose parish boundaries he had resided during his life. After the funeral, the pastor of S. Mariae in Aquiro requested half of the expenses, according to the aforementioned article, from the perpetual vicar of the church of S. Marci, who, however, only sent him half of the wax candles, arguing that what was received consisted of candles, sacred vestments, and burial expenses, which are not subject to division. The matter was brought before the Vicariate court, and the official who at that time held the office of treasurer of the clergy gave his written opinion, following established custom. This opinion was primarily based on the principle, "where the law does not distinguish, neither should we distinguish," and therefore, the pastor of S. Mariae in Aquiro fully received support from the Most Reverend Vicar of the City, and on February 7, 1888, he obtained confirmation. Nevertheless, the perpetual vicar of S. Marci did not yield, and even after this, he refused the requested payment. Then, the aforementioned Most Reverend Vicar, possessing exceptional prudence, employed every means to resolve the matter peacefully, although unsuccessfully. Therefore, in May of the previous year, the question was brought before the Sacred Congregation of the Council by the pastor of S. Mariae in Aquiro. Although a deadline was set for the perpetual vicar of S. Marci to present his arguments in his favor, he presented nothing in his defense. Synopsis of the

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Dispute. JURA PAROCHI IN AQUIRO. In favor of the pastor of S. Mariae in Aquiro, it can be observed that, in this case, the portion of expenses, which is assigned to titular churches, should be considered as a quarter of the funeral expenses, which in the City reaches half.

[*Latin ed. p. 27*]

ROME, as can be seen in the Statutes of the Roman clergy, Book III, § 10, and as testified by Cardinal De Luca in *De Parochis*, discourse 25 and discourse 44. Therefore, it should be understood that half of the goods pertaining to the church belong to the tithe that must be computed for the fourth part. Furthermore, as writes Santi in *Prael. Iur. Can.*, book 3, title 28, *De sepult.*, number 8: "The fourth part of the funeral expenses is computed from those things which are customarily taken to the church because of the funeral." These are candles, incense, vestments, and ornaments with which the coffin of the deceased is decorated. Indeed, Barbosa writes in *De off. et pot. par.*, book III, chapter 24, number 36: "The funeral fourth, or canonical portion, is due from all things that are brought about because of the funeral, namely, on the day of the funeral." Father Emmanuel, in *Quaest. regul.*, volume 1, question 39, article 2, at the beginning, and Covarrubias, chapter 7, number 7, *de testam*, after the Abbot, states that it is customary for the parish church to receive the fourth part from the monks, but only from those things which are offered at the time when the funeral or the obsequies of the deceased are celebrated. Molin, in *De tust.*, treatise 2, discussion 215, number 4, writes: "What is due is from all offerings and benefits of the funeral." And below, number 37: "Therefore, funerals are those things which are brought about because of the burial... and whatever is brought to the church on the occasion of the funeral." Furthermore, the same author, a little later, recounts that Pope Urban VIII, on March 21, 1629, approved a decree of the Sacred Congregation of Religious Rites, after a meeting held before the Most Reverend Cardinal Vicar, in which it was resolved and declared, in order to remove disagreements and to avoid scandals: "that both the incense, candles, and tapers which are carried along the way, and also all those things which are around the bodies, before they are given to the earth, in any private churches, shall be divided in equal portions among the parish priests and ministers of other churches, whether regular or national, or otherwise privileged." And finally, number 44 adds: "Also, the fourth part is due from arms, books, banners, shields, or pallia which are carried in the coffin; Peter de Ubaldis, chapter 4, number 10; Oldrad, *Consil.*, 211, number 7, concerning silk or gold fabrics, such as linen or serge, per chapter."

[*Latin ed. p. 28*]

28 In ROMA, three times concerning the word "sign," "fees," etc. » Moreover, if any author seems to hold a different opinion, Barbosa notes that this

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proceeds from custom or a privilege, especially granted to certain religious orders. However, concerning the observance prevailing in the City, the documents in the records are far from conclusive. Nevertheless, the parish priest of S. Mariae in Aquiro seeks to strengthen his petition by citing the constant practice of all the parishes of ROMA in similar cases; and furthermore, he recounts that before the appendix to the Statute of the Clergy was published, in a similar dispute between the churches of S. Mariae in Transtiberini and S. Mariae in Transpontinam, the Vicariate Curia decreed that the titular church should receive half of the revenues, both of candles and of vestments for the sacred rites and for burials; perhaps this decision was the origin of the reform of the old appendix to the statute. Finally, concerning the word "revenues," which is found in the disputed article, and whose interpretation is requested by the Sacred Congregation, it has been noted in the same Statute of the Roman Clergy, Chapter V, which is entitled "Concerning Revenues of Funerals," the following law: "§ 1. By the name of revenues of funerals are understood the offerings or collections made on the occasion of a funeral, etc." With these general words, the revenues that accrue to the church by title of candles, sacred vestments, and burials, seem to be included. Furthermore, in the same chapter, below, these kinds of revenues are specified, and in § 2 and following, there is mention of the tapers and torches that are carried in the procession, or that were lit around the coffin, or in the house of the deceased, or on the altars, and in § 8, specific mention is made of the sacred vestments at the funerals of Cardinals, Prelates, Canons, and others to whom the church pertains. Therefore, it would seem that, even according to the meaning of the Statute of the City, the word "revenues" and those things that the petitioner requests, are at least implicitly indicated. More closely to the point of the question, the parish priest of S. Mariae in Aquiro alleges the testimony of the parish priest of the church of SS. Vincentii.

[*Latin ed. p. 29*]

In ROMA, and concerning Anastasius, who formerly held the office of secretary of the particular commission from which the new addition was drafted, it is stated as follows: it is understood that the words added to § 35 of Chapter IV concerning the right to receive funeral expenses, which state that "half of the emoluments always belong (to the Cardinal's titular churches)," do not encompass only the emolument from candles, but also the emoluments from the canonical portion of the burial cloth, the sacred vestments, and the burial itself, provided that this is the unanimous opinion of the aforementioned commission. This statement, appearing to offer an authentic interpretation of the law, would certainly resolve the matter under consideration.

TO THE NOTARIES. TO MARCI. Nevertheless, it would seem necessary to consider the case of the perpetual vicariate of the church of St. Mark,

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since the deceased Cardinal Pellegrini was its parish priest, and therefore, it should not be obligated to return half of the requested funeral emoluments, unless the plaintiff presents the most evident proofs. However, the aforementioned considerations may be subject to certain exceptions.

Firstly, it would be necessary to deny that half of the funeral expenses are due to the titular churches, claiming that it is only a quarter. Since only a quarter is assigned to the parish priests – and this was established for their benefit, those who administer the sacraments – it would perhaps not be appropriate to extend all that benefits the parish priests to the benefit of others, especially when it would cause a loss to the parish priest. Moreover, in ROMA, as can be seen in the cited Statute, Chapter V, § 1, "the emoluments from funerals are considered, as it were, in place of tithes for the parish priests."

However, having said all this, it should be noted that in the Statute of the Roman clergy, Chapter 3, § 10, it is declared: "By the name of the quarter of the funeral expenses, according to the accepted custom of the City, is meant half of the candles or tapers, which are either placed around the coffin, either during the procession in the street, or during the exposition in the church for the funeral, or on the altars." And although the passage refers to the quarter due to the parish priest in the funeral of someone who dies outside the City, and below, in § 11, it is written: "The heirs of the deceased..."

[*Latin ed. p. 30*]

30. Those in ROMA and the surrounding areas are obligated to pay the taxes for burial plots and funeral services, as well as any supplementary fees, if these are not covered by the prescribed amounts in § 3; however, it should be noted that Article 10 explicitly states what is due in the City, and that these amounts are in no way included in the calculations that the parish priest of S. Mariae in Aquiro requires. Those things which are asserted regarding the customs of ROMA, and the response of the Vicariate, should not be considered, since it is clearly established that one must contend with facts, not assertions. Furthermore, it might be maintained, according to the statutes of the ROMAN clergy, that the "quarta" (a tax or levy) is calculated differently for all revenues, depending on the circumstances, namely, whether it is due to the parish priest, or whether it must be paid by him to other churches. The foundation for this distinction can perhaps be found in the aforementioned Chapter V, at the end. Indeed, after it has been declared in § 13 that the items listed – books, rings, swords, banners, crosses, and insignia of orders or dignities – which are carried with the deceased, do not pertain to funeral expenses, it is added in § 14: "However, whenever these are given by the heirs to the church, then if they have been given to the parish, the entire amount goes to it; if, however, they are given to the church that buries or exposes the body, then they

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are divided between the parish and that church." But even if it is conceded that to the titular Cardinal's churches of the Holy Roman Church, half of all revenues is due in exactly the same manner as to the parish, it can be denied that, whatever the meaning of the term "culcitra" (a type of bed or bier), it refers to the revenues that are typically collected for sacred vestments and burial. Indeed, if one examines the final part of the statutes of the clergy, which is entitled "Revenues from funeral taxes," one will undoubtedly find that it is not speaking of revenues, but of taxes. Furthermore, in order not to provide too many citations, it is sufficient to point out that there are articles found there which are worded as follows: "§ 1. Revenues from wax. — § 2. Revenues from the covering [of the coffin]. — § 3. Taxes for the right of burial. — § 4. Tax for sacred vestments." Moreover, since this distinction is so clear, it follows that the invoked principle does not apply: "where the law does not distinguish, neither should we distinguish." Indeed, in matters of funerals, the parish priests of the law assist.

[*Latin ed. p. 31*]

In ROMA, it would be necessary to conclude that the aforementioned taxes are not to be considered among the benefits to be increased. Furthermore, one could add to this the provisions in Chapter V of the statutes of the Roman clergy, where, when speaking of sacred vestments, it is stated in § 101: "Among the vestments that belong to the parish, the *superpelliceum* [a type of vestment] is not included, etc." and in § 11: "These vestments, however, which belong to the parish, may not be sold or converted to profane uses, etc." And finally, in Chapter VII, § 16: "If Emperors, Royal Princes, Cardinals, Bishops, and the four highest prelates of the Roman curia should die, the aforementioned tax [burial tax] shall not belong to the cemetery, but to the parish church." Moreover, it could be deduced that the taxes collected for sacred vestments and for burial rights pertain to the parish to which the deceased belonged. Having considered these points, the following question was put forward: Whether the perpetual vicar of the church of S. Marci in the city is obliged to pay half of the sum received for the *calcitra* [a type of footwear], sacred vestments, and burial rights of the Diaconate of S. Mariae in Aquiro in this case.

RESOLUTION. The Sacred Congregation of the Council, after deliberation on March 18, 1893, decided to respond: Affirmative and furthermore.

FROM WHICH THESE CONCLUSIONS ARE DRAWN:

I. To the titular church, in the funerals of Cardinals, half of all the benefits that the parish church receives in these matters are due.

II. Whatever is assigned to the titular churches of Cardinals, on the occasion of their funerals, appears to be in the nature of a fourth of the funeral expenses, or a canonical portion, which elsewhere varies, but in Rome

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reaches half.

III. Under the name of "benefits," all the advantages and offerings that are made to the parish church during the funeral or obsequies of the deceased are included.

(1) (1) Compare Volume X, page 553, where a vote was passed in 1876 by K. P. D. Santi, when such questions first began to be raised, due to the civil law that prohibited private burials in churches.

[*Latin ed. p. 32*]

32 FROM THE SACRED CONGREGATION OF SQUILLACE. Decree concerning the confirmation of the cult, practiced from time immemorial, of the venerable Servant of God, Lanuin, a priest of the Carthusian Order, now beatified. Dated January 14, 1893. Lanuin, of the most noble Norman family, a most faithful follower of Saint Bruno, the Founder of the Carthusian Order, accompanied the Holy Patriarch to Rome and then went to Calabria to dwell in the eremitical life. He possessed such authority among the faithful that almost all affairs and ecclesiastical causes of the province of Calabria were entrusted to him by the Supreme Pontiffs, Blessed Urban Second and Paschal of the same name, Second. He sat in the Councils held in Rome, Florence, Guastalla, and Benevento, where his doctrine and wisdom shone forth in a remarkable manner. Finally, in the year one thousand eight hundred and twenty-one, when he had completed the course of his life, his fame for holiness rose so high that his sacred body was, along with his remains, deposited together in the tomb of Saint Bruno, where it is religiously preserved to this day. Thus, it is as if the Father of the Carthusian Order and his firstborn son in Christ, a wonderful propagator and director of the same Order, are not separated, either in life or in death. Therefore, the ecclesiastical cult of Blessed Lanuin arose marvelously among the faithful from his glorious death, since he was not only recognized as legitimate but also as present in their midst; the Most Reverend Raphael Morisciano, the present Bishop of Squillace, desiring to fulfill the wishes of those faithful entrusted to his diocese, humbly requested the confirmation of this cult. For this reason, I, the undersigned Cardinal, Prefect of the Sacred Congregation of Rites, having presented the case to the Ordinary Sessions of the Sacred Congregation itself, and after gathering in the Vatican on the date indicated below, the following question was proposed for discussion: Whether the opinion of the aforementioned Bishop of Squillace, concerning the cult practiced from time immemorial by the Servant of God Lanuin, or concerning the case, except from the Decrees of Pope Urban VIII, should be confirmed in this case and for the purpose in question? The Most Reverend Fathers.

[*Latin ed. p. 33*]

FROM THE SACRED CONGREGATION OF RITUALS, 33. After a care-

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ful examination of the matters presented, and after hearing the voice and the written opinion of the Most Reverend Father Augustine Caprara, Promoter of the Holy Faith, it was deemed necessary to respond: Affirmative; that is, to confirm the judgment. On January 14, 1893. Subsequently, a report on the aforementioned matter was presented to His Most Holy Eminence, Pope Leo XIII. His Holiness approved and confirmed the Decree of the Sacred Congregation on February 4 of the same year. C A I. CARD. ALOISI - MASELLAS. R. C. PREF. L. S. Vinc Nussi 5. R. C. SECRETARY. A Synopsis of the Life of the Blessed Lanuin. The Blessed Lanuinus Normannus was the first and most devoted companion of the holy Father Bruno, and the second Master of the Eremitium of Santa Maria de Turri. He was of the most noble Norman lineage, which had come to Italy to aid the Catholic Church, and for almost his entire life, from his very childhood, he resided in the city of Rome, where he devoted himself to all studies and disciplines, and made such progress in them that he was considered excellent in that field; and he was highly esteemed and beloved by the Prelates of the Apostolic See and the nobility of Rome, and when our holy Father Bruno first entered the Pontifical Court, he joined him, and remained steadfast with him. Over time, his singular doctrine, wisdom, and honorable conduct so endeared his soul to him that he was received with the greatest affection and familiarity, and he was considered a companion and associate in the affairs of the Pope and in the labors undertaken for the Catholic Church; therefore, under Urban II and Paschal II of the same name, he was held in great esteem and entrusted with important duties. He sat in the Councils held in Rome, Florence, Guastalla, and Benevento; and later, as the most faithful companion of the Holy Father, he descended into Calabria, and, with the Calabrians, established a family, and diligently devoted himself to his work. For he possessed a remarkable knowledge of the administration of family affairs, and was always an excellent guide in the management of the Carthusian monastery; and because he was also astute, he was always careful in the proper management of affairs concerning property and goods.

[*Latin ed. p. 34*]

34. From the Sacred Canons, it is clear that the observance of the rule was held in the highest esteem; therefore, Salerno was visited by Urban II, and, furthermore, he held a discourse on the affairs of the Church of Salerno, having been granted a special diploma for this purpose. Upon arriving, he held a conference with the aforementioned Pontiff concerning the restoration of the good order of the Church of Salerno, which had previously been occupied by the Normans, as is evident from a certain letter existing in the archives of the Archbishopric of Salerno. After our brethren, the hermits, had been guided by their pastor, and with the blessed Patriarch, our Saint, approaching the heavenly realms, the aforementioned Blessed

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Lanuvinus, skilled in canon law, founded in humility, and well-instructed in the observance of the rule, after having shown the utmost piety towards the Holy Father, convened the entire assembly of the hermits, and after consoling words concerning the passing of that great Father, indicated the necessity of choosing a new pastor; therefore, a considerable contention arose among them, not out of ambition, but out of reverence for the Patriarch; for, at his happy demise, the aforementioned Lanuvinus had been left as his successor, not indeed in the office of magistral authority, but in the governance of the hermits and vassals, until a new Prelate was chosen by the entire assembly; thus did the Constitutions of St. Paul and those written by the Blessed Lanuvinus prescribe. Therefore, wishing to fulfill the designation of the holy Father in the person of the Blessed Lanuvinus, some desired it, and contended that the pious Father had constituted him their Prelate and successor, and that, therefore, they should fulfill his will in this instance; all the more so because the fame of the most celebrated Father Lanuvinus was known everywhere, and he was venerated by the Supreme Pontiffs, so that his example demanded the observance of the eremitical life; on the contrary, others said that an election should be held, or that the Apostolic See should be consulted; and so, by the common consent of all, they turned to the aforementioned Apostolic See for a suitable remedy, which at that time was ruled by Paschal II, who entrusted the entire matter to Richard of Albano, Bishop, and Cardinal of the Holy Roman Church; and, by the order of the same Pontiff, the aforementioned Lanuvinus approached the hermitage, and, participating in the elections, was canonically elected by the votes of all to the office of Master of the hermitage, to whom, after he himself had confirmed it, all promised obedience. Thus, with all things confirmed and strengthened, and with the concord of the hermits restored, the Bishop of Albano immediately reported how the matter had transpired, and wrote to the Pontiff, who, greatly rejoicing, dictated letters to our brethren.

[*Latin ed. p. 35*]

From the Sacred Canons of the Council of Trent, 35: Therefore, by the authority of the Pope, and with the consent of all the Hermits, the Blessed Lanuinus, established in the Order of Hermits, began wonderfully to govern the flock entrusted to him, and to direct it towards eternal salvation, and he transformed himself into the purest life of the Most Holy Father Bruno, so that he astonished everyone, and the things done in Mirande were truly such that one could say of him, as it is written in Ecclesiasticus: "Paterius died, and it seemed as though he had not died; for he left a remembrance of himself behind." For he was diligent in the observance of solitude, and he shone forth with fervor in prayer and contemplation, like another Moses, and he reflected the severity of his rule in abstinence; for he did not conduct the affairs of the monastery so diligently, as he hastened to taste the sweet-

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ness of solitude. Indeed, he confessed that the exercises of temporal things had been given to him for penance, to taste the solitude, which is so sweet, and to enjoy future blessedness, and to negotiate with the Supreme God face to face. We cannot fully recount all the holy works that flowed from his most virtuous life, namely, the industry of sound doctrine, the good governance, the singular vigilance of discipline, the fervor of his purpose, the benevolence towards his brothers, the zeal for divine honor, the rectitude of justice, the love of God and his neighbor, the mercy towards the poor, and his own rigorous discipline. These things were well known to Pope Paschal II, who, confident in his prudence, entrusted him with many ecclesiastical affairs, and, as a sign of his authority, appointed him Apostolic Censor for the Province of Catalonia, to eradicate wicked customs; and also, by his vigilance, he brought about the composition of the Church of Militia, and the election of a worthy Prelate was demanded. In a similar manner, he was chosen as Abbot of St. Julian, and he provided for a good pastor in the Monastery of St. Euphemia, to whose pastoral care many letters were addressed by Pope Paschal II. And concerning such Apostolic offices, V. 3. The Blessed Lanuinus diligently and with the utmost vigilance and care performed these Apostolic commissions, and immediately reported them to the Supreme Pontiff, so that, as can be understood from other letters, it is clear how obedient Blessed Lanuinus was to the delegations given to him by the Pope; therefore, he shone forth as a bright and burning light everywhere, because not only in the provinces of Calabria and the Kingdom of Naples, but also in Lucerne...

[*Latin ed. p. 36*]

36 FROM THE SACRED RITUALS. The Pope, attending to his most important affairs, had appointed a minister, but also in the Kingdom of Sicily; for, owing to certain matters concerning the Church of Messina, he had sent there, for the recognition of the Archbishop, a petition to the Apostolic See; and thus, in a certain letter, he speaks of the election to be made of the Abbot in the monastery of Saint Julian, and of the aforementioned cause concerning the Church of Messina. Pope Paschal, to his servant, etc., to his beloved son Lanuvinus, greetings, etc. As we recently wrote to the monastery of Saint Julian, so we write to your fraternity. As your experience shows, etc. And thus, with Apostolic letters, carefully and with singular prudence, Pope Paschal, by Apostolic authority, created Lanuvinus Visitor and Reformer of the monasteries of that Province, and commanded that he should settle the questions that had arisen between the Bishop of Militus and the monks of Saint Angel. With these praises and commendations, and with such zeal and charity, the Supreme Pontiff commends our Father Lanuvinus, as is evident from the aforementioned letters; and therefore, the same Pontiff grants me the faculty, that after due warnings, he may excommunicate with an anathema all those who cause disturbance, either

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to the monks or to the goods of the monastery. As time passed during the governance of the Blessed Lanuvinus, the number of hermits in the austere hermitage of Santa Maria de Turri, because of old age and various infirmities, were unable to endure that rigor and fervor; therefore, Pope Paschal, with Lanuvinus acting as an intermediary, granted that they might live according to the Rule of Saint Benedict in the monastery of Saint James of Montauro, and also that those novices, who from secular life were converted to the eremitical life of the Carthusians, might prove themselves in the aforementioned monastery under the direction of two monks, the Prior and the Dean. However, the same Pontiff commanded, under the threat of divine indignation, that the aforementioned monastery should be separated and remain distinct from the unity of the hermitage and the governance of the same master. As for the cell of Mentabris, or the church, which was located near Squillace, of which the aforementioned letters speak, it is to be understood that it was the same as the monastery of Saint James, which, in a privilege granted by Count Roger to Sergius for his liberation from the siege of the city of Capua, is mentioned; where the aforementioned Count says: "I have given to the same Father Brunone..."

[*Latin ed. p. 37*]

From the Sacred Rituals, number 37, and its successors, concerning the perpetual and unburdened possession of the Monastery of Saint James of Montauro, which is described below, having been originally constructed. Therefore, the aforementioned Monastery was situated above the castle, which today is called the Grange of Santa Maria, which had been purchased by the aforementioned Counts from the hands of the Greek Schismatics, and it was incorporated with the Hermitage of Santa Maria de Turri, in which a certain Procurator, or Prefect, was shown a vision of horrendous punishments in Purgatory. Therefore, Blessed Lanuin, the first and most worthy successor of the Holy Father, with the best of rights, took possession of this estate, for he was an outstanding builder of Monasteries; thus, as Rogerius Comes calls him, and in public acts he always obtained the greatest authority among the Pontiffs and Princes, which is indeed recognized from the letters, and from his labors undertaken for Christ the Lord, the Holy Church, and the benefit of the Sacred Order, it is said that as patience shone forth, so too did singular prudence manifest itself. And Blessed Lanuin was so excellently adorned with virtues, with doctrine, prudence, and rare qualities, by God, by nature, and by grace, that, as the monuments of the House testify, there was no one similar to him in the entire Province. Therefore, Blessed Lanuin deserves to be called by this name, because he was the feet, the hands, the eyes, the perpetual and tireless provider, and also the procurator of the poor of Christ, to whom it is his duty to serve and to rule; under whose governance the Hermitage of Santa Maria de Turri grew to more than forty hermits and monks, both in this lower house

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and in another, Saint James of Mentabro. Moreover, more than fifty were converted, and thus, the aforementioned Father expanded the divine cult, which, through pious devotion and Holy Religion, many great men of this Province bestowed upon the hermits, among whom were some who were particularly noteworthy, namely, first, Goffredus de Loretello, Count of Catanzaro, who, in the year one thousand one hundred and sixteen, while still a young man, together with his mother, Berta, dedicated for the love of God, and for the salvation of his own soul, and the souls of all his parents, the Church of Santa Maria de Turri, and to Master Lanuin, certain cultivated and uncultivated lands with vineyards and forests in the locality of Badulati, and also all that his parents had in the same estate, to the same.

[*Latin ed. p. 38*]

38. From the register of ecclesiastical customs, it is recorded that the churches of All Saints and Saint Nicholas, together with the estate of Saint Martin, were confirmed. Secondly, Guisperna de Luciaco, the wife of our Count Roger, daughter of the aforementioned Count Roger, in the year of Our Lord one thousand nine hundred and nineteen, for the benefit of her own soul and the souls of all her ancestors, donated to the church of Saint Mary of the Tower and to Master Lanuin ten villanas, that is, ten peasant holdings, with their appurtenances; and also to the churches of Saint Michael and Saint George, together with their lands and holdings. Lastly, Roger of Arenas, the Count, by the sanctity of the hermitage of Saint Mary, which was called the Hermitage of Master Bruno and Lanuin, who then governed it, was divinely inspired in the year of Our Lord one thousand nine hundred and twenty-one, to confirm and greatly expand the obedience, or grange, as it was called, granting a large area adjacent to the same grange without any charge. Thus, the blessed Lanuin concluded his life in sorrow with all, on the eleventh of April of the year of the restoration of health one thousand nine hundred and twenty-one; but they buried him, his brothers and his sons, in the tomb of our holy Father Bruno, and because he was venerated by all as a saint, and died with the reputation of holiness, they immediately recorded his death in their martyrology, after the feast of Saint Peter, noting the day of his death as follows: "On the eleventh of April, the blessed Lanuin died." Bruno and Lanuin, beloved and highly esteemed in their lives, were not divided even in death; like eagles they were swift, like lions they were strong. From that time until now, their honors have always been joined together, as two olive branches and two candlesticks, before the Lord. "The children of the light stand there: these are the two sons of splendor, who assist the Lord in the whole earth, whose prayers and supplications before God we hope to be aided by. But few things about this most illustrious man have been made known to us; for the monuments of his great deeds and of all that he did perished with him, along with other burned manuscripts. In the likeness of the Blessed Lanuin, Norman Master

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of the Tower Hermitage. Let darkness and shadows cease; now, O Father, begin to shine, great Father, and voice your sweet Hermitage, etc.

[*Latin ed. p. 39*]

39 FROM THE SACRED CONGREGATION FOR THE DISCIPLINE OF THE RITES: Regarding a doubt: Whether the sentence pronounced by the Most Reverend Bishop of Squillace is to be confirmed, concerning which matter is now brought before Us, and to the Most Reverend and Venerable Lord Lanuius, and to the worthy emulators of Saint Patriarch Brunon, who today present this cause before Our Assemblies, which I shall call most beautiful and elegant, because it is wondrous and arduous before Your eyes. The life of Brunon is presented anew, to incite hermits to better things, and to inspire admiration in all the faithful. Therefore, it is fitting for me to present this cause, of the most recent and highest importance, before this Sacred Order, under Your most excellent auspices, for I am confident in Your extraordinary piety and in Your profound knowledge, and I trust that You will bring forth new, most brilliant fruits of decorum, honesty, and exquisite Christian piety through Your work. Come now, Most Reverend Prince, may this cause be received with great eagerness and a willing spirit under Your protection, and may You pursue its consideration with benevolent favor. For in this brief discourse, it will be my duty to describe the holy life of the Venerable Lanuius, to recount the fame of his universal sanctity, which he attained through this life, to assert the perpetual cult rendered to him, and to demonstrate [it]. And, with God's help, I shall accomplish this, drawing from the most excellent documents presented in the process and in the summary. As the family of the Venerable Lanuius, originating in Normandy, was torn from the Catholic Church by the divisions of that time, the Venerable Lanuius came to this our Occident, which is today called Italy by the Italian King, in the late eleventh century. Endowed by nature with a fertile mind, a pious, modest, and gentle disposition, he immediately, upon establishing his home in this serene city, devoted himself entirely to cultivating his mind, to forming his heart in piety, and to adorning himself with all virtues. He reaped the most abundant fruits from both labor and the most excellent exercises: for, upon completing his studies, he excelled in all the arts, and deservedly earned great praise for his piety among all. Of which, the Most Reverend Tromby testifies, that -

[*Latin ed. p. 40*]

40. From the Sacred Rituals, we learn that the author of the history of his Order was a man of great accuracy and, moreover, of perpetual virtue. Indeed, Venerable Lanuvinus writes: "He was descended from the Normans, from whom assistance had come to the Catholic Church in Italiam; he had spent almost his entire life in the city of Roma, devoted to all studies and disciplines, and had made such progress in them that he was considered

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one of the most excellent in that field." Therefore, Venerable Lanuvinus shone with the ornament of outstanding knowledge and the innocence of his manners from his earliest childhood until the very end of his youth. This purest light could not remain hidden for long, but shone forth to the eyes of men through his virtue and dignity, so that our Lanuvinus was most highly esteemed by the Prelates of the Roman Curia, and then by Saint Bruno himself, to whom he devoted his efforts in carrying out legations and affairs of the Roman Pontiffs, and of the Apostolic See. Because of the outstanding virtues with which Venerable Lanuvinus was endowed, Patriarch Bruno greatly loved him, and took him as a companion and associate in founding the Carthusian monasteries, to which men were being drawn who desired to embrace this most perfect state of life. Through the arduousness of the eremitical life, and its most perfect conformity to the counsels of the Gospel, we perceive almost intuitively that those who are devoted to such a life lead a life *in mundo abs mundo*, that is, without the world, but not without all the lawful, comforting, and honest recreations that the world offers even to the pious. Indeed, those who practice the eremitical life according to the norms of the Carthusian Constitutions, renounce their own family, not exchanging it for another religious family, as happens in other monasteries of men who lead a less strict and less arduous life; but rather, they live for themselves, constantly and in silence, devoting their time to the contemplation of heavenly things, and to the contempt of earthly things, in prayers and in the recitation of divine psalms, and through the afflictions of the body and soul. It is fitting to oppose the well-known saying of Holy Scripture, "Woe to the solitary," with another saying from the same divine Scripture, "Blessed is the solitary." For truly, this solitude is blessed, according to the holy laws [Saint Bruno's actions!]. In it, we no longer see men mortal, fragile, and carrying burdens, who produce fruit in sorrow, but rather, we see those heroes who have abandoned mortality, and who enrich themselves with the treasures of the immortal kingdom of heaven, who, being weak, If one fall he shall be supported by the other.

[*Latin ed. p. 41*]

From the Sacred Rituals, number 41, they overcome the fragility of human nature by opposing all inclinations. They transform human pride into humility, carnal concupiscence into angelic purity, the hunger for gold and the desire for riches into squalid poverty, honors into insults, and the pleasures of this world into insatiable vanities; they lay aside earthly garments, so that they may clothe the old man, steeped in sins, with a new and most precious garment of grace and love. And do they not bear fruit even in hardship? For those who are freed from sin and the devil no longer have anything that hinders them in multiplying the works of holiness. They are, as it were, without wings in the body, yet like eagles they fly in spirit: they are not hindered in the body, but they participate in the eternal life

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of God in spirit. For they are those of whom the Lord Paul speaks in his Epistle to the Corinthians, chapter 6, verse 12: "For we are made manifest, and our sins are known; for we are made manifest, and there is no secret concerning us. For if we were living according to the flesh, we would have pleased men; but now we live in the sight of God." Those who live in this way, who indeed lead the holy life described above on earth, are certainly endowed with heroic virtue, and no one can deny it. Therefore, let us turn our minds to the cloistered life of the Venerable Lanuini, so that we may contemplate his wonderful sanctity, which shone forth throughout his entire life. He was sent by the order of Saint Bruno to Calabria to build monasteries of hermits and to oversee them. Of his wonderful activity in building the monasteries, and of his extraordinary skill in governing them, I will speak later; for now, I will confine this discourse to the cloistered life of the Venerable Lanuini, of whom he was the most devoted and loving servant. Although he devoted himself with the greatest activity and effectiveness to the building of the monasteries, and he showed extraordinary skill and supreme prudence in governing them, he did not seem to suffer anything in carrying out these tasks; on the contrary, he was happy when he could return to his sweetest solitude, which he called paradise, and which he enjoyed in the most delightful way, because he spent all his time in contemplation of heavenly things, in fervent and constant prayer, and in "acts of the greatest love for God," and also in cultivating all virtue, both private and eremitical. Indeed, the aforementioned Most Reverend Tromby testifies about him: "He was..."

[*Latin ed. p. 42*]

42. Because he was diligent in observing the rites of the religious life, he shone forth in the fervor of prayer and contemplation, like another Moses. He reflected on the hardships of abstinence with ardor, and he hastened to taste the sweetness of solitude, for he declared, weeping, that the exercises of temporal things had been given for penance, for savoring solitude, which is so sweet, and for enjoying future blessedness, and for dealing with the Highest God face to face. Concerning his charity towards his neighbor, wonderful and great things are read in the same Life of the Venerable Lanuini, written by the praised Father Tromboni. He was praised above all for his benevolence and sweetness towards his brethren of the Order, whom he embraced with charity, not only the lower and subordinate, but also the superiors, as equals. He was always ready to help all those in need, whether bodily or spiritual, so that he was held in great veneration by all, who were wont to say that there was no one in the Venetian Province equal to him in the excellence of the virtues with which he was endowed. Moreover, he excelled above all his brethren in mercy towards the poor, because he revered the person of Christ in them. He was outstanding in the governance of monasteries. His skill and prudence shone forth so brightly

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that they could not be surpassed. It is worth considering that his brilliance attracted the attention of the Roman Pontiffs Urban II and Paschal II, who employed him in various missions and affairs of the Apostolic See. Indeed, the truth is confirmed: for when the Roman Pontiffs, having praised the Venerable Lanuini, entrusted him with affairs, he conducted himself in a most remarkable manner, and brought everything to a happy conclusion. This is testified to by the letters of those same Pontiffs, in which his great skill and prudence in carrying out affairs are highly commended. His fame grew so much in every virtue that, after the death of the Holy Founder of the Carthusian Order, with the consent of all the brethren, and by the authority of the Roman Pontiff, he was appointed General Superior of the Order. In performing this most important office, he followed all things according to the norms of the Holy Founder and the Apostolic Constitutions. A most diligent observer of regular discipline, he took the greatest care to restore and improve every monastery. He aided his monasteries of the Order with remarkable activity and zeal, so that he was called by all a wonderful builder of monasteries.

[*Latin ed. p. 43*]

From the Sacred Rituals, 43: The good odor of Christ, which the Venerable Lanuin spread abroad, captivated the eyes of the multitude, and turned the minds of the nobles towards him, some of whom, having previously revered him as a saint, and others following with all due obedience, so that, to demonstrate their reverence for his works, they bestowed upon him and his monasteries numerous temporal goods as gifts. All these things are recounted in the aforementioned detailed account of the Venerable Lanuin, which was drawn from documents preserved in the archives of the Order. After completing his mortal course, the Venerable Lanuin, having refreshed the sacred mind of the Church, peacefully departed this life amidst the tears of all his confreres in the year of Our Lord 1120. Due to the great sanctity with which he lived his life, his tomb received a new and most ample monument. His companions, who in him saw the perfect example of the Holy Founder in all virtues, found in the same tomb a fitting place for Saint Bruno, and they placed his bones with the bones of Saint Bruno in the same urn; and although, over the course of time, they have been moved from place to place, they are still preserved in the same container to this day. Let us now listen to the most illustrious Tromby, who says: "Finally, with the sorrow of all, the last day of the life of the Blessed Lanuin arrived, on the eleventh of April of the year of the restored health of the one thousand one hundred and twenty-first; and his brothers and sons buried him in the tomb of our Holy Father Bruno, and because the Saint was venerated by all and departed with the reputation of holiness, they noted the day of his death in their martyrology, after the mention of Saint Peter, as follows: 'On the eleventh of April, the Blessed Lanuin departed.' Bruno and Lanuin

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were united in life, and they are not divided even in death." It is clear to everyone that our Lanuin spent his entire mortal life cultivating all virtues, and indeed, in a heroic manner, and that he departed from this world with the fame of all holiness. It remains, therefore, to see whether a perpetual cult has been established for him, so that, in accordance with the norms of the laws and prescriptions of the Holy Ritual Congregation, the Apostolic See may confirm it and declare it valid. The reasons for which this cult is worthy of being established are evident. Above all, it must be noted that the cult of the Venerable Lanuin is supported by testimonies of faith.

[*Latin ed. p. 44*]

44. From the records of the Sacred Congregation for Rites, no agreement has been reached regarding the matter, although the cult of this venerable man has been practiced for almost nine centuries, a fact attested to by our most holy father. Therefore, I shall present further and more conclusive proofs of this same cult, which are pleasing to the faithful, namely, those that originate from the beautiful life of the Venerable Lanuino. Let us turn our attention for a moment to the 11th of April of the year 1120 of the Incarnation of Our Lord, on which day it is recorded that our Venerable Lanuino passed away, causing great sorrow to his relatives and to the neighboring people, who, in turn, flocked to venerate his body, which had been laid out for viewing in the church of his Order. Not out of levity, nor out of curiosity, but compelled by the fame of the exceptional sanctity of this holy man, a large number of people attended his funeral, offering prayers for his soul. There was one voice, one cry, that was emitted from their hearts. The holy man had died, and his confreres testified to the omnigenous sanctity with which he was endowed, and they considered it fitting to place him in the same tomb as Saint Bruno. In this very same instance of veneration, which had been offered to Saint Bruno, the Venerable Lanuino was also embraced. What once happened, remained the same; the bodies of Saint Bruno and the Venerable Lanuino are still preserved in the same tomb to this day. And how numerous are the testimonies regarding the recognition of their remains, which have been carried out by ecclesiastical authority. Furthermore, the cult of the Venerable Lanuino is most closely associated with his honorable tomb, and all the witnesses presented in the process, and all the documents presented in the same process, testify to this, and place it beyond doubt. Beginning with the testimonies of the witnesses, among whom I shall, for the sake of brevity, select the fourth, fifth, and eighth, regarding the tomb of the Servant of God, and the gatherings to venerate his remains, as well as regarding the antiquity of this same cult, and its more recent manifestations, these witnesses, under oath of sanctity, testify as follows: Witness IV, in response to question 8: "I know, through ancient tradition, that the body of the Blessed Lanuino has been preserved together with the body of Saint Bruno, and that it is currently found in

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the same tomb." In response to question 9: "I remember the devotion to the Blessed Lanuino in all places, and always, since my childhood, and it is said that it has been preserved from very ancient times." Witness V, in response to the same question: "I know, through ancient tradition,..."

[*Latin ed. p. 45*]

FROM the Sacred Rituals, section 4, it is stated that the body of the Blessed Lanuin is kept together with the body of Saint Bruno in the same casket. The title of Blessed and the devotion to the Blessed Lanuin have been passed down to us from ancient times, as is generally the case. Indeed, it is said that many commend themselves to his intercession and invoke him in their prayers. Finally, the Witness VIII, according to the same interrogation, responds: "I also know that the body of the Blessed Lanuin, as I have learned from my informants, is in the same casket that contains the body of Saint Bruno... This devotion to the Servant of God Lanuin, and the title of Blessed, has reached us from time immemorial." Concerning this same cult of Lanuin, from time immemorial, almost all the most important documents are presented in the Process and Summary of the Cause, to obtain full proof of the same. From these, we extract some, but weighty, and conclusive passages, for the complete proof of the same cult. In the work of the Most Reverend Tromby, a critical-chronological history of the Holy Patriarch Saint Bruno and of his Carthusian Order, it is read: "Returning to the nineteenth day, some others knew by reputation of the virtues of the two renowned figures (namely, Saint Bruno and the Blessed Lanuin), and of their miracles. This was a testimony to the Master Lambert. Therefore, experiencing every day an ever-increasing number of faithful who, with unspeakable piety and devotion, came in droves to commend themselves in their needs to the intercession of the Servants of God, he, as Ordinary of the place, considered it not necessary to transfer, in advance, the translation and elevation, where the religious cult of their bodies previously existed: a thing new at that time, indeed, discovered and brought to light, and those holy Relics, with a suitable space, were separated from each other in the same casket, and placed inside, for distinction, a cardboard label, and were placed in the altar in the church of Santa Maria del Bosco, which is visible from the grotto, where the glorious Patriarch, when he was among the mortals, lived a penitent life, and conversed with the heavens." The same is taken, and confirmed, from the Brief Chronicle of the Anonymous Carthusian Monk: "Finally, when he had completed his course, having suffered much for his hermitage and his brothers, both in temporal and spiritual matters, with a full life and merits, with the greatest reputation for sanctity, he went to heaven."

[*Latin ed. p. 46*]

46. According to the Rites, [the relics] were washed. The sacred relics

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were deposited together with the most holy relics of our Holy Father Bruno, where they are still kept, so that, just as in life, so also in death, they might be separated by nothing but "splendor." Regarding this same cult dedicated to St. Bruno and the Venerable Lanuin, the fifth document, reported in the Summary of the Cause, speaks most clearly, where it is stated: "Furthermore, in the same Triforium, on the right side, there is another altar dedicated and consecrated, beneath which altar is the body, or rather, the remains, of St. Bruno and of the Blessed Lanuin of the same Carthusian order. The bodies of these saints are placed in a certain chest constructed beneath the aforementioned altar, surrounded by an iron grating. The bodies of these saints are kept with great veneration in this place, except for the head of the aforementioned St. Bruno, which is kept with great veneration in a separate chest." This same cult is also attributed to the Venerable Lanuin by Urbanus Fiorenza, the most distinguished writer of the Carthusian Order, who, in the documents of his order, states that Lanuin is perpetually adorned with the title of "Blessed," and that he is called by that same title in the manuscript and Calendar of the same Order, and also in the catalog of the relics of the saints, which was formerly kept in the church of the same monastery: "The body of the Blessed Lanuin." The name of Lanuin is not only found in the Calendar, but also in the Martyrology of the same Order, with these words: "On the eleventh of April, the Blessed Lanuin died." And there, the following noteworthy observation is made: "Those priests who knew the integrity of his customs, the rigor of his observance, and the holiness of his life, had no difficulty whatsoever in considering him blessed, and it is already seen that with such a title he is found registered in the most ancient Necrologies of the Certosa di S. Stefano." The same is derived from the Theatrical Chronology of the Order of the Carthusians, by D. Charles Joseph Moratio, in which, regarding B. Lanuin, the following is read: "He adorned the most excellent monastery and the most serious Order with morals and with outstanding virtues, with which the title of 'Blessed' was bestowed upon him among the Fathers of the Order, and just as the Divine Bruno was buried, after six and forty years, he was raised with him in a more magnificent cult in the church of St. Stephen." Not only is the name of Lanuin found in the Martyrology of the Carthusian Order, but also in the Martyrology of the Calabrian Province.

[*Latin ed. p. 47*]

From the Sacred Rituals, number 47, it was related with the following words: "On the seventeenth day of the kalends of September... In the Monastery of Saint Stephen of the Carthusians, the companions and disciples of Saint Bruno, who afterwards most holily governed said monastery." To prove this, and to affirm the true devotion towards the Venerable Lanuin, I present certain testimonies of illustrious witnesses of the City of Scherra, namely Michael, the Regional Archpriest, Protopapa;

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Michael Giancotti, a priest; Joseph Pisani, a Syndic; Vincent, a scribe; Francis Valente; and Francis Barillari, who, under oath, testify that the bodies of Saint Bruno and the Venerable Lanuin are perpetually buried in the same tomb, and have been publicly exposed, and that the people of the City and neighboring towns have truly practiced devotion towards them until this day. After these testimonies, and after the documents which I have presented to you, esteemed Fathers, can there still be any doubt concerning the public and ecclesiastical cult rendered to the Venerable Lanuin for almost nine centuries? For, from the day of his blessed death, which occurred on the eleventh of April in the year 1120, until the present day, every gathering of people has followed him with public devotion and fervent piety. Remember that our Lanuin, by reason of his undoubted sanctity, was buried in the same tomb as Saint Bruno, so that he might be sought out, venerated, and that the people of the neighboring region, constantly thronging to him, have always called him Blessed, and his name is recorded under that title in the Calendar of the Carthusian Order, and in the Martyrology of the same Order, and of that Province of Calabria, with words extolling his sanctity. His companions, both contemporaries and those who came after, have lived with the title of Blessed, and the public devotion towards him has been maintained until this day. The people of the City and of the neighboring regions have constantly come to venerate his remains, drawn by the fame of his sanctity and miracles, and they have implored his patronage with great confidence in their public and private needs and misfortunes, and still implore it. Truly, the reverence shown to him, and the help which we ask through his intercession, constitute a public and ecclesiastical cult. Therefore, let us conclude that the Venerable Lanuin has been followed by public and ecclesiastical cult by the people of the City of Scherra, and also by the neighboring peoples, from the day of his death until this day. We have seen above, the cult...

[*Latin ed. p. 48*]

48. From the Sacred Canons of the Urbanian Decrees, it is not possible to be healed in any way, for it began in the year 1120, and for the following centuries it was maintained, before the same Decrees came to light. And the most excellent Bishop of Squillace, without doubt, pronounced a definitive judgment, namely that it consists of the public and ecclesiastical worship rendered from time immemorial to the Venerable Lanuino of the Carthusian Order. And his words are: "Having seen the Decrees of Urban VIII, recently published. Having seen the depositions of witnesses lawfully summoned and examined, and duly signed by the advocates. Having seen all the documents, writings, and records presented, and lawfully examined. Having seen all the acts of the process, and having considered all that was to be considered. " In the name of Christ, we say, we pronounce, we declare, and we definitively judge that it consists of the public and ecclesias-

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tical worship rendered from time immemorial, that is, before the year one thousand five hundred and thirty-fourth, never interrupted, and happily continued to this day, to the Servant of God Lanuino, and therefore this cause falls among the exceptions mentioned in the Decrees of Pope Urban VIII. And so we say, we pronounce, and we definitively judge." Therefore, all things concur, that is, all that we have presented assert, prove, confirm, and extol the unmemorable worship rendered to the Venerable Lanuino. I implore you also, Most Reverend Fathers, to examine diligently the most brilliant arguments that we have brought forth, and to consider them seriously, with the highest wisdom with which you are endowed. You, who easily discern between the flower and the weed, will say that the presented proofs are not only sufficient, but abundant, with your joy. Therefore, I am confident that you, Most Reverend Fathers, will dismiss the doubtful proposal, and without any anxiety, you will judge that the sentence of the Reverend Ordinary of Squillace is to be confirmed. This will greatly rejoice the Diocese of Squillace, and its neighboring people. The entire Order of the Carthusians will also rejoice, who, through arduous paths, seek heaven with the movement of angels. The Mother Church, the most blessed Mother of her children, will rejoice, and she, who, like a soldier fighting on this miserable earth, and who, for so many days, is battered by storms, asks her children who have been brought to the mansions of heaven, to offer their prayers, that she may be delivered from storms and tempests.

[*Latin ed. p. 49*]

From the Sacred Ritual, number 49, carried by the gentle breeze; the port of Saint Peter, situated in Valva, shines with the beauty and splendor of peace. Finally, deign to consider the most fervent wishes of the most excellent Religious Man, the Reverend Father Aloysius Joseph de Vaulchier, Postulator and General Procurator of the aforementioned Order, who, with wise counsel and numerous efforts, has brought the glory of this Order forth from the tomb. To these wishes, I gladly assent, confirming their reasonableness and importance. VALVA and SULMONA. The decree of confirmation of the cult, rendered from time immemorial to the venerable Servant of God, Falcus the Hermit, patron of the town of Paterna, is now sanctified. Among other men who have illuminated the Dioceses of Valva and Sulmona, not only through the preaching of the Word of God, but also through the most illustrious examples of virtue, Falcus the Hermit is justly worthy of veneration. He, along with six other hermits, led by Abbot Hilarion, despising the world and its allurements, migrated from the borders of Calabria, driven by the arms and vexations of the Saracens, to the region of Peligna, where, as an outstanding helper of Christ, he diligently labored to enrich the souls of others. After having recalled many of his companions from the path of perdition to the way of salvation, full of merit, he established himself in a solitary village situated above the mountain

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near Palena, where he led a solitary life, and his heavenly blessedness is still visible among us. Therefore, he lived and prospered there most peacefully, and was buried in the church under the title of Saint Giles the Abbot. His tomb was so glorious that immediately that church, not only with the consent of the Christian faithful and Bishops, but also with a Bull from the Supreme Pontiff Innocent VII, who had previously been a Canon of the Cathedral Basilica of Sulmona and Praepositus of Valva, was named after Saints Giles and Falcus. It is said that the sacred relics of this saint were subsequently brought to Palena and religiously hidden in the Mother Church, and that many miracles have occurred. Although the ecclesiastical cult of Saint Falcus has been rendered and celebrated continuously, it has not yet been authentically recognized by the Apostolic See; the Reverend Monsignor Tobias, the present Bishop of Valva and Sulmona, with the help of monuments, and with the diligent and careful efforts of his General Vicar, has recorded this in the Acts, Volume XXVI, page CCCL 4.

[*Latin ed. p. 50*]

From the Sacred Congregation of Rites, it was demonstrated that, from time immemorial and long past, the public and ecclesiastical cult had been offered to the Divine Family, according to the decrees of the blessed record of Pope Urban VIII. This was obtained from the Most Holy Pope Leo XIII, through a decree of the Sacred Congregation of Rites, dated February 17th of the current year, so that this cause might be examined by an ordinary and juridical inquiry, in place of which were presented series of the aforementioned documents in authentic form, duly exhibited in the acts of the Sacred Congregation itself. Hence, at the urging of the aforementioned Reverend Prelate, who, in the assembly of the Congregation for Sacred Rites, under the date of the aforementioned Vatican meeting, presented the following written communication to the Cardinal Prefect of the Sacred Congregation, in place of the Most Reverend Lord Cardinal Raphael Monaco of Vaux, as Advocate or Relator of the cause, the following question was proposed for discussion: "Does this case fall under an exception from the decrees of the blessed record of Pope Urban VIII, in this case and for the purpose of which we are speaking?" The Most Reverend Fathers, entrusted with the safeguarding of the sacred rites, having considered all matters with mature examination, and having heard the voice and the written opinion of the Reverend Father Dominic Augustine Caprara, Promoter of the Holy Office, judged it necessary to write: "Affirmatively, that is to say, that this case falls under an exception from the decrees of the blessed record of Pope Urban VIII." On June 27th, 1893. Subsequently, these matters were presented to the Most Holy Pope Leo XIII, through the aforementioned written communication of the Cardinal. His Holiness, having approved the written account of the Sacred Congregation, confirmed that the public and ecclesiastical cult to the Blessed Falcon the Hermit had been offered from

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time immemorial. On July 2nd, in the same year.

C. CARD. ALOISI-MASELLA, Prefect of the Sacred Roman College.

R. C. Secretarius.

L. * S. VINCENT NUSSI, S.

[*Latin ed. p. 51*]

FROM THE SACRED CONGREGATION FOR RITUAL, DECREE GENERAL, 51, CONCERNING THE PREEMINENCE BETWEEN PRIMARY AND SECONDARY FEASTS OF THE SAME RITE. Dated June 27, 1893. For some time, the question of the preeminence between primary and secondary feasts of the same rite has been debated by experts in sacred liturgy, a matter of very great importance. However, since this controversy has not yet been resolved, the Sacred Congregation for Rites has repeatedly given responses in particular cases, and has issued several decrees, without ever defining a general decree. Now, since in these recent times there has been a great divergence of opinion on this matter, due to the multiple and opposing interpretations of the rubrics by the writers on sacred liturgy; the Apostolic See has deemed it necessary to establish a single norm, which should be observed everywhere and by all, especially by those in the order of the Divine Office, in order to ensure uniformity. Therefore, the Most Holy Pope Leo XIII entrusted the Reverend Father Augustine Caprara, Promoter of the Faith, to draw up an opinion in writing, to be discussed in the meetings of the Congregation for Sacred Rites; after which, after various opinions had been heard from experts in the science of rubrics, and after much erudite deliberation. After all these considerations, and after communicating them along with the opinion of the aforementioned Promoter of the Faith, in a meeting of the Congregation for Sacred Rites, held on the date indicated at the Vatican, I, the undersigned Cardinal, Prefect and Relator of the same Sacred Congregation, proposed the following question: Whether the secondary feasts of the Lord, of the Blessed Virgin Mary, of the Angels, of the Saints Apostles, and of other Saints, should be given precedence over the primary feasts of the same rite and class, but of lesser personal dignity, both in their occurrence and in their observance, and in the celebration of their proper feasts! Therefore, the Most Reverend and Right Reverend Fathers entrusted with the preservation of the sacred rites, after mature deliberation and with due consideration of the aforementioned experts, and with the addition of the Reverend Father Promoter of the Faith, considered it necessary to state as follows: In the opinion of the Most Reverend Promoter of the Faith, namely: Primary feasts, being more solemn, should be given precedence over other secondary feasts, both in their occurrence and in their observance, in accordance with rubric X concerning the translation of feasts, number 6.

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And if the same feast is to be transferred, the prescribed order should be observed in their reposition.

[*Latin ed. p. 52*]

S2 From the aforementioned rubric No. 7 of the Sacred Ritual; and let a catalogue of feasts be made, which are to be observed as either primary or secondary. June 27, 1893. Finally, having related all these matters to the Most Holy Lord, Our Pope, the aforementioned Cardinal Prefect, with the approval of his Holiness and the Sacred Congregation, ratified and confirmed the following, ordering that the rubrics written above be interpreted in this way, and no other: Rescripts, or Decrees, whether general or particular, which are contrary, are to be entirely abolished by supreme authority. July 2, in the same year. CAIETANUS S. CARD. R. C. ALOISI-MASELLA, Prefect. Place and Seal. VINCENTIUS Nussi, S. R. C., Secretary.

DECREE. Concerning the new Office and Mass of the Holy Family. The Most Holy Lord, Our Pope Leo XIII, having approved, with salutary counsel, the Holy Family Association, which had already been bearing good fruit in the Church, through letters of June 14 of the preceding year, so that Christian families might be more closely united in the bonds of piety, and that Jesus, Mary, and Joseph might be venerated as if they were their own family, to be protected and fostered. Moreover, many most eminent Bishops of various nations, having supplicated the Most Holy Lord Our Pope with countless prayers, requested that, as was already the case in some places, he would deign to grant the Office and Mass in honor of the Holy Family of Nazareth to themselves and to the religious congregations that requested it. Furthermore, since some changes were necessary in the particular Office already in use in some dioceses, it was decided to compose a new Office and Mass, which, having been carefully prepared with special Apostolic authority, and as appears in the preceding example, was diligently reviewed by me, the undersigned Cardinal, Prefect of the Sacred Congregation of Rites, together with the Reverend Father D. Augustine Caprara, Promoter of the Holy Faith, and was presented to the same Most Holy Lord Our Pope by the aforementioned Cardinal.

[*Latin ed. p. 53*]

From the Sacred Rituals, section 53. His Holiness has approved of this, and has graciously permitted that the Feast of the Holy Family be observed with its own Office and Mass, at the request of Sacred Ministers for the Clergy of their assigned Dioceses, and by religious Congregations, according to the established rite on the Third Sunday after Epiphany, and has decreed that, in places where the Feast of the Holy Family has hitherto been celebrated, it be transferred to the aforementioned Third Sunday after Epiphany, and that the new Office with the ancient Mass be substituted in the future, observing the rubrics. Contrary decrees notwithstanding. June

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14, 1893. C. CARD. ALOISI - MASELLAS. R. C. L. * Prefect. S. VINCENTIUS NUSSI, Secretary.

Observations:

1. A new Office concerning the Holy Family and the Holy Family, with a Mass, has been composed and approved.

2. This Office is not obligatory, but is granted to Dioceses and religious Families, for which the Ordinary Bishops or Superiors have requested it from the Sacred Congregation; as We, as Vicar, have requested for the City and the suburban Diocese of Albano Laziale, assigned to us.

3. Since it is attached to a Sunday and is not universal, the Office concerning the Holy Family loses the right of translation. However, since some Dioceses possess the privilege of transferring Offices attached to Sundays or weekdays, the following is noted: the IX lesson, which is sufficient for the Homily of the Sunday, may be transferred. The same privilege of translation, if it can be easily obtained.

4. A Feast of this kind is secondary, so that it should yield to another Feast, either by occurrence or by concurrence, of higher personal dignity, if it is of the same rank, according to the General Decree of July 27, 1893.

5. In the coming year, 1893, the Third Sunday after Epiphany falls on the Seventieth Sunday. As it will be necessary to make the Decree known, the aforementioned Sunday is postponed for this reason only, although the Feast of the Holy Family prevails by itself; nevertheless, it will be reduced to the simple rite, or even entirely omitted, or the Feast itself, which is to be celebrated first, may undergo a translation. These are sufficient.

[*Latin ed. p. 54*]

54 FROM THE SACRED CONGREGATION FOR RITUALS: Vicariate Apostolic of North Carolina. A question regarding the prayers to be said when Saint John the Baptist is the titular saint of the church.

The Most Reverend Doctor Leo Haid, O.S.B., Apostolic Vicar of North Carolina in the United States of America, humbly submitted the following question to the Sacred Congregation for Rituals for a suitable solution: "In churches of which Saint John the Baptist is the patron or titular saint, which prayer should be recited for his intercession in the Office of Vespers and Lauds, namely: the prayer of the Nativity or the prayer of the Decollation of the Precursor?" And the same Sacred Congregation, after careful consideration and with the vote of the other Masters of the Apostolic Ceremonies, decided that the prayer of the Nativity should be recited, changing the word "Nativity" to "Commemoration." And thus it was decreed and ordered to be observed on June 1, 1893.

C. CARDINAL ALOISI-MASELLA, S.R.C., Prefect.

L. * FATHER VINCENT NUSSI, Secretary.

PORT-LOUIS. A question regarding the prayers to be said after Mass.

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The Most Reverend Doctor Leo Meurin, the present Archbishop and Bishop of Port-Louis, humbly submitted the following question to the Sacred Congregation for Rituals for a suitable solution: "In some churches, it has been customary to recite several prayers for indulgences after private Masses celebrated for the souls in Purgatory at the altar, namely: the 'De Profundis,' the acts of faith, hope, and charity, the 'Saint Mary, pray for us,' and the prayer for the dead. The question is: can the prayers prescribed by the Most Holy Pope Leo XIII be omitted after a private Mass in the aforementioned circumstances? And, furthermore, can the aforementioned prayers for the dead be added?" And the same Sacred Congregation, after careful consideration and with the vote of the other Masters of the Apostolic Ceremonies, decided that the question should be answered as follows: "No, to the first part; Yes, to the second." And thus it was decreed on June 23, 1893.

C. CARDINAL ALOISI-MASELLA, S.R.C., Prefect.

L. * FATHER VINCENT NUSSI, Secretary.

[*Latin ed. p. 55*]

FROM THE SACRED RITUALS: Regarding Saint Christopher of Havana. A question concerning the calendar to be used by religious parishes. The Most Reverend Doctor Emmanuel Santander Frutos, Bishop of Saint Christopher of Havana, humbly submitted the following question to the Sacred Congregation of Rites for a suitable solution: "Are Religious Orders, commonly called Congregations, which receive remuneration from the civil government to serve diocesan churches, obligated to conform to the diocesan calendar in performing their sacred office?"

The aforementioned Sacred Congregation, after careful consideration and with the vote of another of the Masters of the Sacred Ceremonies, decided to answer the question in writing as follows: "If Religious Orders have their own calendar, the answer is No; otherwise, the answer is Yes." And thus it was written and declared on June 23, 1893.

C. CARDINAL ALOISI-MASELLA, Prefect of the Sacred Rites.

L. * S. VINCENTIUS NUSSI, Secretary.

FIRMANA: A question concerning the distribution of Holy Communion to nuns.

The Most Reverend Cardinal Hamilcar Malagola, Archbishop of Fermo, submitted the following question to the Sacred Congregation of Rites for a suitable declaration: "According to the Decree of Linden, of June 4, 1892, paragraph XIV (1), is a priest obligated to distribute Holy Communion to nuns, and if the choir stall is reserved, should he, after the recitation of the Confiteor by the minister or by the nuns themselves, place the pyx at the window of the choir, and there, turned towards the nuns, say 'Miserere,' etc. 'Behold the Lamb of God,' etc.? Furthermore, can Holy Communion be

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administered to nuns, both outside and inside Mass, and does it sometimes happen that the minister must also serve at Mass, or even to the faithful?"

"Furthermore, in Holy Communion outside of Mass, not only are certain prayers prescribed in the Roman Ritual to be said before Communion, but also some to be recited after the Eucharist has been administered; and finally, a blessing is prescribed to be given after Communion has been administered. Since, however, it is not entirely clear from the same Decree whether all of these things must always be performed in any Communion of nuns at the window of the choir..."

(1) The decree is found in Volume XXV, page 58.

[*Latin ed. p. 56*]

56. From the Sacred Congregation of Rites, it is required that, when the choir is located behind the altar, the following should be observed. Therefore, in order that uniformity may be maintained in the execution of these rites, the question is asked: Should the disposition of the Decree concerning the Lincienses be understood absolutely, or only under certain limitations? Furthermore, the Sacred Congregation of Rites, after careful consideration at the request of one of the Masters of the Sacred Ceremonies, decided to respond; negatively to the first, affirmatively to the second; and with the following intention. The intention is that the Decree concerning the Lincienses, in Dub. XIV concerning the administration of Holy Communion, should be understood to apply only to the administration of Holy Communion outside of the celebration of the Mass by a priest wearing a stole and cope, and only to nuns, when the choir is either located behind the altar or is distant from the altar. Only in these cases, and in the places and circumstances to which they pertain, should the rites and prayers previously written in the Roman Ritual be observed for the nuns; in all other cases, the Roman Ritual should be followed, and all prescribed rites and prayers should always be recited at the altar. And thus it was ordered on June 13, 1893.

C. CARD. ALOISI - MASELLAS, Prefect.

L. S. VINCENTIUS NUSSI, Secretary.

DECREE OF THE SACRED CONGREGATION OF THE COUNCIL — by which the collection of alms at Masses is disapproved, with the intention of assigning the celebration of those Masses to priests, to whom, in place of money, books or other goods are given as payment. Constantly concerned with diligently suppressing abuses related to the celebration of Masses, this Sacred Congregation has issued several decrees, by which it has sought to remove all that is reprehensible, and has commanded that the pious intentions of the faithful and the benefits of the Masses be religiously preserved and diligently guarded. Therefore, in order to restrain the abuse of certain licenses granted to those who, with the help of the

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clergy, exchanged Masses for almanacs, books, or other goods, certain regulations were established, which, after being approved by Pope Pius IX, were published and brought to the attention of the Ordinaries, so that all might observe them. The following, among other things, were proposed:

[*Latin ed. p. 57*]

I. Whether the exchange of goods for Masses is to be considered a shameful practice, and therefore to be condemned and, if it occurs, to be restrained by ecclesiastical penalties, namely, by the action of Bishops, or of those entrusted with the care of churches, or of merchants, who, by public invitations and rewards, or in some other way, collect alms for Masses, and to priests, to whom they entrust the celebration of these Masses, who, instead of money, offer books or other goods in return:

II. Whether this practice is to be considered shameful, either because, even though no reduction is made, as many Masses as the collected alms allow are celebrated, or because assistance is provided to the poor and to priests who lack alms for Masses:

III. Whether the collection and distribution of such alms are to be considered reprehensible and to be restrained, as above, by Bishops, when the money obtained from the exchange of goods for alms is not collected for the benefit of those collecting it, but is spent on pious institutions and good works, or for their increase:

IV. Whether those are to be considered to be engaged in a shameful practice, and therefore to be condemned and also to be restrained, as above, who, having received alms for Masses in churches or at pious places, give them to booksellers, merchants, or other collectors of such alms, whether they receive anything in return from them or not:

V. Whether those are to be considered to be engaged in a shameful practice, and therefore to be condemned and restrained, as above, who, because they receive from booksellers and merchants books or other goods in return for Masses celebrated, accept these goods, whether at a reduced price or at full price:

VI. Whether it is permissible for Bishops, with special permission from the Holy See, to deduct something from the alms for Masses, which the faithful are accustomed to give to certain sanctuaries, in order to provide for the needs of the sanctuary, especially if it lacks its own revenues: In a particular decree of the year 1874, the Holy See decided:

I. Affirmative.

II. Negative.

III. IV. and V. Affirmative.

VI. Negative, unless with the consent of the donors.

(1) But in recent years, it has been observed that this kind of practice has often been neglected, either through ignorance or malice.

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(1) See Collect, Vol. VIII, 107, 620 and following pages.

[*Latin ed. p. 58*]

58. Because the abuses in this matter had become very widespread, the "Eminent Fathers" of the Holy Congregation, interpreters and guardians of the Council of Trent, having considered all matters in a double general meeting, fulfilled their office, which was to revive, with full memory and observance, what had long been decreed, and to fortify it with suitable sanctions. Therefore, by this present decree, they establish that, in the future, if any person from the priestly order should transgress against the aforementioned decrees, he shall be subject to divine suspension, and shall incur the penalty of the same by the very fact: and likewise, a cleric who has not yet received the priesthood, and those who have received the minor orders, shall be subject to the same suspension, and shall be deemed ineligible to receive the higher orders; finally, laypersons shall be bound by a general excommunication, reserved to the Bishops. Furthermore, since experience has shown that the evils that are lamented arise most of all from that which is done in the hands of private individuals, where the number of Masses is gathered together in greater quantity than necessity requires, therefore the same Eminent Fathers, adhering to the dispositions of the Roman Pontiffs, and especially of Urban VIII and Innocent XIII in the constitution "Cum saepe contingit," under penalty of obedience and the decree itself, command and decree that, in the future, all and each beneficedaries and administrators of pious causes, or those in any way obligated to fulfill the obligations of Masses, whether clerical or lay, shall deliver to their proper Ordinaries, at the end of each year, the obligations of Masses that remain, and for which they have not yet satisfied, according to the manner defined for them. The Ordinaries, having received the obligations of Masses with the attached stipend, shall first distribute them among the priests subject to them who are in need; otherwise, they shall transfer them to the Holy See, or to other Ordinaries, or even, if they wish, to priests of other dioceses, provided that they are known to them, and without any exception, and shall provide legitimate documents within a prescribed time, by which the exact fulfillment of the same shall be proven. Finally, having revoked all indulgences and privileges granted up to now, which are contrary in any way to the dispositions of the present decree, the Holy Congregation entrusts to the care and office of each Ordinary that the present decree be diligently made known to all those ecclesiastical persons subject to its jurisdiction, and to others to whom it is of interest, so that no one in the future may plead ignorance.

[*Latin ed. p. 59*]

From the Most Holy Council 59*, it is impossible to allege, or to excuse oneself from the observance of this decree: and moreover, whether it be

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sacred Visitations or otherwise, let them diligently watch, lest these things repeatedly occur. Having made a report on these matters to the Most Holy Lord Pope Leo XIII, the Sacred Congregation, having considered the matter, ratified and confirmed the decree of the Most Holy Fathers, and commanded that it be observed, notwithstanding any objections to the contrary. Given in Rome, on the 25th of May, 1893. ALOYSIUS, Cardinal, Bishop of Sabina, Prefect. L. SALVATI, Secretary.

FROM THE SACRED CONGREGATION OF THE INDEX. On Friday, the 14th of July, 1893. The Sacred Congregation of the Most Eminent and Reverend Cardinals of the Holy Roman Church, by order of the Most Holy Lord Pope Leo XIII and the Holy Apostolic See, concerning the Index of books of corrupt doctrine, and concerning their condemnation, proscription, expurgation, and permission throughout the Christian Republic, on the 14th of July, 1893, condemned and condemns, proscribes and proscribes, or orders that the following works be referred to the Index of Prohibited Books:

Mariano Raffaele. — *Gli Evangelii Sinottici - Realtà o invenzione? Studii.* — Naples, Tipografia della Regia Università, 1893.

Cadorna Carlo. — *Religione - Diritto - Libertà. Della condizione giuridica delle Associazioni e delle autorità religiose negli Stati civili.* — Posthumous edition, edited by General Cadorna, with biographical notes of Senator M. Tabarritti, President of the Council of State. — Vol. 2. Ulrico Hoepli Editore-Libraiodella Real Casa, Milan, 1893.

[*Latin ed. p. 60*]

From the writings of Amabile Luigi, formerly Professor of Pathology at the Royal University of Naples, and formerly a Member of the National Parliament. — The Holy Office of the Inquisition in Naples. — A narrative with many unpublished documents. — Vol. 2. Città di Castello, S. Lapi, Printer-Publisher, 1892.

Mantegazza Paolo. — Physiology of the Woman. — Vol. 2. Milan, Fratelli Trêves Publishers, 1893.

Negri Ada. — Fate. — Milan, Trêves, 1893.

Guidotti Giovanni, Principal of the Royal Technical Institute of Palermo. — Three Popes, or The Peace Among Christian Churches. — Palermo, Turin, Carlo Clausen, 1893.

Ferrière Emile. — The Myths of the Bible. — Paris, Félix Alean, Publisher, 108, Boulevard Saint-Germain, 1893.

Mivart St. George — Happiness in Hell (Nineteenth Century), London, December 1892, — and The Happiness in Hell, ibid., February 1893 — and Last Words on the Happiness in Hell, ibid., April 1893.

Decree of the Holy Office, on the fourth day of the week, July 19, 1893.

"Therefore, let no one, of whatever rank or condition, dare to publish, or

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to read or retain, in the future, the aforementioned works, in any place or in any language; but, they shall be compelled to deliver them to the Ordinary of the place, or to the Inquisitors of heretical depravity, under the penalties indicated in the Index of Prohibited Books.

These matters, having been related to me, the undersigned, Secretis, His Most Holy Lordship, Pope Leo XIII, approved the Decree and ordered it to be promulgated. In witness whereof, etc.

Given in Rome, on July 14, 1893.

Camillus Card. MIAZZELLA, Prefect.

Hyacinth Fratio, P., Secretis.

Place for the Seal.

On July 24, 1893, I, the aforementioned Magister Cursorum, testify and declare that the aforementioned Decree was affixed and published in the city.

Vincentius Benaglia, Mag. Curs.

[*Latin ed. p. 61*]

61 FROM THE APOSTOLIC PENITENTIARY: A sample form of petition, to be sent to the Holy Tribunal of the Roman Penitentiary for granting matrimonial dispensations (1).

Most Blessed Father, N. N., born in the year N. N., and N. N., born in the year N. N., from the diocese of N., having prostrated themselves before Your Holiness, humbly request a dispensation regarding the impediment that prevents them from contracting a valid marriage with each other. The reasons are: 1. The age of the petitioner. 2. The lack of a dowry. 3. The narrowness of the place. 4. The care of children born from a previous marriage, etc. The petitioners are poor. We testify that what is stated is true, and we commend the petitioners to Your Grace for this favor.

Given.

(1) A sample of such a petition seems highly commendable, both for its brevity and its clarity: thus, the episcopal curias, using few words, indicate what they are requesting, and the reasons upon which the request is based are made clear. Furthermore, the officials of this Holy Tribunal, burdened with many affairs to be carried out, can, as it were, grasp at a glance what is being requested, and for what reasons it is being requested.

[*Latin ed. p. 62*]

62 APPENDIX L exhibits the acts of the Apostolic See; which have either long been recorded, or which have recently come to the attention of the editor of the *Ephemerides*. Instruction of the Sacred Congregation, February 4, 1891 – Regarding certain marriages in Japan. From letters received on November 1, 1888, it is known that the inhabitants of the island of Kitzuki, descended from ancient Christians, retain the use of Latin prayers, but are

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ignorant of their power; they receive baptism, but doubt its value; they live according to the customs of the pagans, and their marriages are often invalid, either due to the custom of divorce, or due to other impediments with which they are commonly burdened; and this abnormal condition presents very serious difficulties when they are to be received into the bosom of the true Church. Therefore, you are requested to have a certain rule established for you and your missionaries regarding how to act in these matters. In response to this request, the Most Eminent Fathers have readily agreed and have sent you the following instructions. Firstly, it is not permissible to maintain the silence that you have prescribed as a general rule regarding past marriages and present unions of those who desire to return to the true faith. Each case must be prudently and diligently examined, so that they may be advised as necessity demands. For good faith, and invincible ignorance (if it is present), can excuse those who live in an illicit and invalid union from sin; but it cannot make that union a true marriage. Nor is it easy to judge whether these invalid marriages are also to be considered invalid, because they may have been entered into with the opinion of indissolubility, or with the intention of divorce. For only then is such an erroneous opinion a warning.

— Often, documents of the Apostolic See of great utility reach our hands, published either in the past or recently; but which, until now, have been entirely unknown to us. Lest our *Ephemerides*, and our best readers, be deprived of this benefit, we have decided to include these documents, when they come to our attention, in small appendices, noting by whose decree the Roman Pontiff has promulgated them.

[*Latin ed. p. 63*]

APPENDIX I. 63, and the intention of marriage invalidates it when it has been brought about by a pact; and this pact will be evident from the words in which consent was expressed. In order to open the way for restoration, according to Christian laws, of the order of consciences on the island of Kitzuki, the validity of the baptism given to each individual must first and foremost be investigated, taking into account the responses given to the doubts by this Most Holy Congregation of the Holy Office to the Apostolic Vicar of Japan on the fourth day of March, 1868. From this investigation, some will be found to have been invalidly baptized, others dubiously, and some validly baptized. Those who received baptism invalidly are to be considered as heathens, and therefore, if these individuals have entered into marriages with each other, unless some impediment of natural law prevents it, their marriages are to be considered valid. Those who have been validly or dubiously baptized are subject to impediments also that are valid according to ecclesiastical law, except for clandestine marriages, which do not hold here. Therefore, if they have entered into marriages with each other, and are not bound by any other impediment, their marriage

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is to be considered valid. However, it is possible that one party has been validly or dubiously baptized, while the other has been invalidly baptized. In this case, their marriage is null because of the disparity of religion. When marriages are not found to be invalid because of disparity of religion, there will be room for investigation into other impediments that the contracting parties may have been subject to, and especially those of affinity, which are easily contracted on the aforementioned island. Missionaries should not be deterred from such an investigation: for although it must be carried out diligently, it must also be done cautiously and prudently, and with appropriate warnings given to those whose interests are involved, so that it may be kept most secret, and may be of great benefit to them: both because it will consult their own consciences, and because, if a previous marriage is found to be null, they will be allowed to persevere in the union in which they live, with the use of dispensations, if necessary. From these things, you will gather what must be done in each case. If it is established that those who are actually living in the state of marriage are bound by just previous marriages, they cannot be admitted to baptism unless they are separated. If, however, it is established that their previous marriages were dissolved by divorce and were therefore null, they may be admitted to baptism, unless they are subject to some other impediment. In this case, if the impediment is one over which the Church can grant a dispensation, they will be admitted to baptism after a prior dispensation, for which, by the force of these letters, the necessary faculties are granted to you, and with renewed consent, they will remain in the same union. But if, after a diligent investigation, doubt still persists about the validity of previous marriages, and cannot be dispelled, then, provided that...

[*Latin ed. p. 64*]

64 APPENDIX I. Impediments which the Church cannot, or does not usually, dispense, such as those concerning those who are considered to be validly married, must be observed when it comes to baptizing them, provided they are acting in good faith and are genuinely in the state of marriage. However, in more difficult cases, such as, for example, if the first marriage is afflicted by impotence or by force and fear, the matter must be referred to the Holy See, along with the relevant details and a clear explanation of all the circumstances of the case. Finally, if both spouses are found to have been validly baptized, and only one of them desires to convert, it will easily be possible to assist this person through the legitimate use of the privilege granted by St. Paul in favor of faith, provided that the other, unfaithful spouse, is consulted. If just and reasonable causes are present, a dispensation will be granted. Just causes of this kind are present when it can be morally established, at least through a summary and extrajudicial process, that the unfaithful spouse cannot be consulted, or that consultation with them would be either useless or gravely dangerous.

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Furthermore, the marriage with the person for whom a dispensation has been granted, even if it later becomes known that the unfaithful spouse was unable to declare their will freely and justly, and even if they had, at the time of the marriage, already converted to the faith, must nevertheless never be annulled, but must be considered valid. Constitution of Pope Pius V, August 2, 1571: It is permitted for the Indians to have a legitimate wife who is baptized with the man. With the equal and prudent foresight of the Roman Pontiff, in order that those things which ought to be established and determined for the proper guidance of newly converted Indians may not be subject to any scruples or hesitations, it is customary to provide remedies through declarations and other appropriate measures. Now, as we have learned, many Indians remain in their infidelity and permit themselves multiple wives, whom they repudiate even for the slightest reasons; therefore, it has been permitted for those who receive Baptism to remain with the wife who was baptized with them; and because it often happens that this wife is not the first spouse, hence both ministers and bishops are tormented by very serious scruples, believing that this is not a true marriage; but because it is very difficult to separate them from their wives with whom they received Baptism, especially because it would be very difficult to find the first spouse; therefore, We, desiring to provide paternal counsel to the aforementioned Indians, and wishing to exempt the bishops and ministers from such scruples, by Our own motion and from Our certain knowledge, and by the fullness of Our apostolic power, declare that Indians, both those who have already been baptized and those who are to be baptized, may remain with the wife who was baptized with them and who is being baptized, as with a legitimate wife, all others being dismissed, by the authority of the Apostles, by these present words, and We declare that such a marriage between them is legitimately established, etc.

[*Latin ed. p. 65*]

65 APPENDIX I. S. C. S. Office of August 5, 1759 — Bishop of Coccinensis. Doubts concerning the marriage of non-believers, in which one is converted, and the other is not. It often happens that, of two non-believers, one is converted to the faith, while the other, although not willing to be converted at that time, consents to cohabitate with the faithful without offending the Creator, and does not entice him to mortal sin, indeed, promises that he will also embrace the faith later, which he deems necessary to postpone for a certain time for some special reason. Therefore, the faithful does not abandon the non-believer, but continues to live with him as husband and wife, for a long time, and even for several years; but afterwards, the non-believer, having changed his mind, not only does not want to be converted, but tries to entice the faithful to the worship of idols, or departs, and no longer consents to live with him, indeed, he himself goes to other marriages. The question is: 1. In this case, can the faithful who has been

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abandoned also depart, and enter into other marriages, and does the privilege promulgated by the Apostle apply here: "But if the unbeliever depart, let him depart. For a brother or sister is not under servitude in such cases. But God hath called us in peace"? 2. Does this only apply when the non-believer departs because of hatred of the faith, or also when he departs because of discord, or some other reason different from the faith? 3. Can the faithful also enter into other marriages when the non-believer has departed from him for any reason whatsoever, and it is not known whether he is still alive or not? 4. Can the faithful, who has validly contracted marriage with a non-believer by dispensation, enter into other marriages if the non-believer departs, or refuses to cohabitate, or entices him to mortal sin? 5. For how long, after conversion, can the faithful live with the non-believer, so that he does not lose the power of entering into other marriages?

R. To 1. In the case under consideration, affirmatively. To 2. Since the party who has been converted favors the faith, he can use any just reason, provided that there is not a just and reasonable reason for the other spouse to depart; however, it is understood that the bond of marriage with the non-believer is dissolved only when the converted spouse, after having made an appeal and the other refuses to be converted, enters into other vows with a faithful person. To 3. It must be preceded by an appeal in which the non-believer is informed whether he wishes to be converted, from which appeal the Apostolic See grants dispensations for just reasons. To 4. If the faithful, with prior dispensation, has contracted marriage with a non-believer, it is considered that he has contracted it with an explicit condition, provided that...

[*Latin ed. p. 66*]

66 APPENDIX I. namely, if an unbeliever wishes to cohabit with [a believer] without offending the Creator: therefore, if the unbeliever does not observe the aforementioned condition, legal remedies must be employed to ensure that he does observe it; otherwise, they must be separated as regards the bed and cohabitation, but not as regards the bond [of marriage]; therefore, in the case under consideration, where the unbelieving spouse survives, the believer cannot proceed to other vows.

Regarding 5: Having been converted to the faith, [the believer] is not understood to be released from the bond of marriage with the unbeliever, as long as the unbeliever survives the contract, but rather, at that time, [the believer] acquires only the right to enter into other marriages, provided that the unbelieving spouse refuses, after being invited, to convert. Furthermore, the bond of marriage is only dissolved when the converted spouse, before receiving Baptism, has multiple wives, and the first refuses to embrace the faith; then, he may legitimately retain any of them, provided that she becomes a believer, but in this case, the parties must renew their mutual consent before the parish priest and witnesses. S. C. S. Officii, 29 January

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1805. — Vic. Ap. Chan-si et Chen-si. Doubts concerning the marriage of unbelievers; in which a woman was sold, etc. Having heard the word of God from a certain gentile who, after having legitimately sold his wife, took another, now requests Baptism with his supposed wife. The missionary taught him that it is necessary to invite the sold wife. After this invitation, the legitimate wife responded that she most vehemently desires to return to her first husband; for she, having learned the truth of the Christian religion, intends to give her name to Christ, especially because she has been forbidden to become a Christian by her purchaser, who took her as his wife, and from whom various children have been born; who neither allows her to observe the law of God, nor to raise the children in it; and, what is worse, refuses to dissolve the illicit and illegitimate marriage contract, and since he is unwilling, he cannot be compelled by a judge, and therefore, there is no way, without the consent of the aforementioned woman's purchaser, for her to return to the legitimate husband from whom she was sold.

1. It is asked whether the seller of the wife can be baptized, so that he can, after Baptism, revalidate his marriage with his wife, as is stated on page I, section H, to which the following clause is contrary: unless the first [wife] wishes to convert.

2. Also, it is asked whether the sold wife can be baptized, who cannot in any way leave the house of her purchaser, if she receives this from him.

[*Latin ed. p. 67*]

APPENDIX I. 67. Concerning the preparation of the marriage, and after the divorce is granted, he must observe the law of God, even if he cannot raise his own children. The greatest difficulty concerning the first question is that the seller will not want to let go of the other woman, unless he can recover his legitimate wife. Concerning the second question, after obtaining a divorce from the adulterous wife, can the man change his mind? Even if he does not change his mind, how can the scandal be repaired? Do the infidels believe, just as the Christians do, that in such a fictitious marriage, the aforementioned divorce exists? R. To the first question: According to what is presented, negatively, with regard to the invalidation of the marriage, and also with regard to Baptism, unless he ceases from the adulterous concubinage; meanwhile, he will be reminded of the obligation he has to redeem, if he can, and as soon as he can, the wife he sold. To the second question: Granted the divorce from the illegitimate wife, affirmatively; provided that he also abstains from all acts of idolatry and in every way opposes the Christian faith. But if he sees that he cannot do this in practice, and the danger of relapse or scandal is near, he must be reminded of the obligation he has to flee to other regions as soon as he can, and to return to his legitimate wife, according to the attached Instruction. INSTRUCTION. — It is rightly feared that the woman who has been sold, as long as she remains under the power of the buyer, who has thus far

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abused her, may not persevere in her intention of abstaining from both carnal commerce and from all works or words expressing idolatry, or in any way opposing the Christian faith, and therefore may relapse into the state of infidelity. Therefore, the Most Reverend Fathers recommend that before the woman who has been sold receives Baptism from him, he should use all his zeal to try suitable means, so that, as far as the circumstances of the place allow, that woman may be redeemed, either by exhorting his own legitimate consort, who also desires to embrace the Christian religion, to do so, or in some other way, or by suggesting to the woman who has been sold that she should seek all ways to flee from the buyer's house whenever she can. But if this woman cannot be freed from the buyer's hands by these or other means, it will be necessary to examine whether she perseveres in her intention of embracing the Christian faith and receiving Baptism; and first, whether she is ready to reject any dishonest invitation from the buyer, and all carnal commerce with him, and to renounce any act of idolatry, or in any other way contrary to the Christian religion. If, under the same circumstances, the Most Reverend Fathers can have a morally certain hope and assurance.

[*Latin ed. p. 68*]

68 APPENDIX I. concerning that woman, whether she is truly in such a disposition and will persevere in it (which, indeed, is to be determined by your wisdom and prudence), then you will be able to confer the sacrament of baptism upon her, which certainly has the power to strengthen and confirm her sincere and effective intention. However, if the aforementioned hope and morally certain security are lacking, then A. T., with the same well-known zeal, strives to foster in that woman the already conceived desire to embrace the Christian faith, and therefore to receive baptism, as soon as she can do so without offending the Creator and incurring sin; for, in the case of at least a grave infirmity, or the danger of death, she should not remain deprived of the means to eternal salvation for so long. Doubt from the Instructions of the Sacred Congregation of the Holy Office, September 16, 1824 (to the Archbishop of Quebec). Regarding marriage among non-believers, when a woman embraces the Christian religion. Doubts proposed: — 1. A man and a woman, both non-believers, have lived together for many years as husband and wife. The woman claims that she was accepted by the man as his wife with a promise of perpetual cohabitation, and that such a promise (along with the consummation) constitutes the entire marriage between these non-believers, according to the custom of the region. However, the man denies that he ever made such a promise, and claims that he is free, and that he has left her, along with the children born from their mutual cohabitation. The woman, having embraced the Christian religion, can remain with her former husband without the danger of scandal, if he, having been reminded of his promises, were willing to abide

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by them. The question is asked, whether, if he refuses, she can enter into marriage with a Christian man? And, if so, whether the former husband, if he is subsequently converted to the faith, can also take another Christian wife? 2. A certain non-believer woman had a non-believer husband, whom she left without cause, and has attached herself to a Christian man, whom she wishes to take as her husband through a Christian marriage. The question is asked whether she can join him, abandoning her first husband, who is also a non-believer, and who has gone to other lands and is unlikely to return to his homeland? R. To 1. No doubt of this kind is considered worthy of being put forward, as it is not easily resolved, according to what is stated by Benedict XIV (De Syn. Dioec, h 13, c. 21). There, the Pope lays down two principles: 1. Marriages among non-believers can be dissolved if one of the spouses converts to the Catholic faith, while the other remains in infidelity, and refuses to live with the converted spouse; or if he wishes to do so, he cannot do so without offending the Creator.

[*Latin ed. p. 69*]

APPENDIX I. 69 loris; therefore, the converted party, among Catholics, can pass to other vows. 2. However, it must be established that the non-Catholic spouse is unwilling, not based on mere presumption, but through a judicial inquiry regarding the same, unless an Apostolic dispensation intervenes. Now, concerning the first part of the doubt: the non-Catholic spouse, as stated, refuses to fulfill the promises of perpetual cohabitation with the woman; indeed, he denies having made such promises and, therefore, denies having entered into marriage with her according to the custom of the region; he therefore denies having her as his wife, and denies wanting to have her as his wife. As everyone can see, this is more than simply declaring "that he does not want to live with her"; it would suffice with this declaration: therefore, all the more so, the aforementioned circumstances of the case are sufficient to allow the converted woman to enter into another marriage. It does not impede that the woman could remain with the non-Catholic spouse without the danger of scandal, if he, having been admonished about the promises of cohabiting with her, were willing: for he is already presumed to have been admonished, and it is asserted that he refuses. However, it must be noted that extrajudicial knowledge of the non-Catholic spouse's unwillingness before the woman's conversion is not sufficient, especially if it is not confirmed by an authentic or public document. For in such a serious matter, reliance cannot be placed on the assertions of a single, dismissed wife. Therefore, the man must be questioned judicially, before the woman is granted the ability to enter into a new marriage, unless the circumstances indicated by the same Benedict XIV are present, for which an Apostolic dispensation must be used, as will be explained more fully in the second doubt. Now, concerning the second part of the doubt: theologians and canonists indeed dispute among themselves, and the praised

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Pope declares the question to remain open in his Apostolic Constitution on the Ministry (regarding the abuse of the repudiation document by those converted from Judaism to the Catholic faith): namely, whether he who, among spouses, perseveres in infidelity, remains bound as a punishment for his perfidy, or whether, when the converted spouse has already passed to other marriages, he should be considered free and innocent. But this case is far different and outside the question; for here we are not dealing with the freedom of the man who is still persevering in infidelity, but with his freedom after he himself has embraced the Catholic faith, and the woman has already entered into another marriage. In this case, since freedom has been granted to the woman by the favor of the faith, it must also be granted to the man by the favor of the faith, lest otherwise an opportunity be given to him to reject the Catholic religion, and to other non-Catholic spouses to remain in infidelity. Therefore, the question of the penal bond, which is not relevant in the present case, must be deduced from the principles of common law. And the principle of common law is: *soluta a vinculo*.

[*Latin ed. p. 70*]

70 APPENDIX. I. To a married woman, it is permissible to remain separated from her husband. For the bond exists between two, or between two made into one; therefore, the liberty of one affects the liberty of the other. It does not matter to inquire whether the husband has truly abandoned her, or not, but rather whether the asserted promise, namely, whether it is true that there is a marriage between him and the aforementioned woman. Since the doubt is not about the validity of the marriage, but about the unwillingness to cohabit, indeed, the separation presupposes a true marriage.

II. Two things are asserted in this doubt, from which the author seems to take reason for doubting: namely, the husband's abandonment of the wife through her, and the husband's migration to other lands, from which he will likely not return to his homeland. But it has been shown that neither of these is sufficient for the case in which a woman, having become a Christian, can marry another without an Apostolic dispensation, provided that the other spouse is not notified, that is, is not consulted. And indeed: the first does not hold, because, since a marriage between non-believers, to which no impediment of divine or natural law exists, is valid and indissoluble, and is not dissolved by the arbitrary abandonment of either party, but neither can it be dissolved by the mutual consent of both spouses nor by their will. Therefore, the conjugal bond subsists, and it cannot be dissolved without consulting the husband. Nor does the second hold, so that it can be said that in this case the obligation to make inquiry ceases: for missionaries ought not to conceal this, Benedict XIV (de Syn. Dioec. lib. 6. cap. 4. et lib. 13. cap. 21.) i. does not consider it sufficiently safe in practice to assert that a judicial inquiry can be lawfully omitted whenever it cannot be done in practice, or, if it were done, would be considered of

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no use; 2. and he holds the opinion, which he also recalls was the opinion of the Sacred Congregation in a certain matter in Florentina (January 17, 1722), namely: that even in the case in which a non-Christian spouse has gone to distant regions, or is so hidden that he cannot be inquired of, there is still need for a dispensation from the Supreme Pontiff, who is to declare in what circumstances the obligation of the divine precept by which the aforementioned inquiry seems to be prescribed ceases. The judgment is remitted to the Bishops in those missions, to whom the power to grant such a dispensation has been given, to decide in particular cases whether the urgent circumstances concur for which a dispensation from the obligation of inquiry should be granted.

S. C. S. Officii, July 4, 1855 — Vic. Ap. Siamen. Doubts regarding marriages between non-believers and Christians. I. Since Chinese people sometimes emigrate and remain permanently in the kingdom of Siam, it happens that, due to the distance of places, the...

[*Latin ed. p. 71*]

APPENDIX I. 71. It is difficult for chastity to reach an unfaithful spouse, or it is very difficult. The question is asked: Can dispensation be granted from the obligation to summon the spouse, considering the decrees of the Synodus Sutchuensis, chapter IX, § 8, which permits this in cases of difficulty in finding the party to be summoned, or because of such great distance that summoning her cannot be achieved, or at least the matter is very difficult. This is deduced from the Brief of Gregory XIII, dated January 25, 1585. II. The laws in those regions permit divorce, and the Chinese successively take multiple wives, and, having abandoned the first, sometimes have children by a second woman. The question is asked: 1. If the first wife refuses to return to her husband after being summoned, can the neophyte, after obtaining prior dispensation from disparity of cult, contract marriage with the second, unfaithful woman, who only desires to cohabitate, from whom he has had children? The question is asked: 2. If the second, unfaithful woman gives hope of future conversion, even if she has no children, can the neophyte, after obtaining prior dispensation as above, marry her? The question is asked: 3. In the case that the second woman wishes to be converted, is it sufficient to simply ask the first wife if she wishes to be converted, omitting further questioning as to whether she consents to live peacefully? III. It sometimes happens that the first wife remains sold into servitude, and she herself consents only to live peacefully in order to obtain her freedom. The question is asked: 1. Is the first husband obligated to redeem her from servitude, even if she was not sold by him, but by her parents or by a second husband, who subsequently repudiated her? The question is asked: 2. If the neophyte has a second wife who is unfaithful, from whom he has had children, and this woman consents to be converted to the faith, or to live peacefully, can he retain her, with renewed consent,

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and with dispensation granted, if necessary? The question is asked: 3. In the case that the first wife, in order to be freed from servitude, says she wishes to be converted to the faith, but afterwards refuses to be converted and to live peacefully, can the husband again sell her to infidels in order to recover the money, and marry another? IV. If the neophyte has successively had multiple wives who are unfaithful, whom he has repudiated, but the one whom he retains at the time of conversion consents to be converted to the faith, can the neophyte marry her, without first summoning the first, according to the decree issued by Pius V for the Indians, dated August 2, 1571? V. If an infidel husband, having a Christian wife, retains concubines, can it be said that this is an injury to the Creator, so that in this...

[*Latin ed. p. 72*]

72 APPENDIX I. In what cases may a Christian woman avail herself of a privilege in favor of the faith to contract a second marriage?

VI. Titius, having been abandoned by his first wife, who was an unbeliever, moved to other regions, where, having been instructed and baptized, he married Anna, a Christian woman, before a priest, without any objection, concealing his first marriage; afterward, returning to better circumstances, he confesses his fault and requests dispensation from the impediment of his first wife so that he can renew his consent with Anna: can such a dispensation be granted, if the necessary conditions for granting it are present? Titius, in good faith, contracted marriage with Anna and was unaware that it was an impediment.

R. It must be answered according to the decision of the Most Holy Congregation of the Propagation of the Faith, addressed to the Reverend Procurator Apostolic of Siam, according to the attached instruction.

INSTRUCTION. In response to the doubts and questions posed by the Bishop of Mallensis, Vicar Apostolic of Siam, on the fourth day of the week, July 4, 1835, the Sacred Congregation of the Holy Office deemed it appropriate to respond with the following Instruction, since almost all the questions, especially those concerning the impediment of an unbelieving spouse, admit of a simpler solution if one attends to the words and prescriptions of the Synodus Sutchuensis, which, having been approved by the Holy See, was extended even to the kingdoms adjacent to China, among which is also included the kingdom of Siam; indeed, in chapter IX, § 8 of the same Synodus, it is clearly declared when dispensation from the impediment may be granted, and in what manner one should proceed according to the norms of the Brief of Gregory XIII, and furthermore, what must be done; and there it is also found when and how, if the first legitimate wife is unwilling to convert to the faith, or at least to live together without offending the Creator, a faithful man may take a second wife. But, if the second woman also refuses to convert, declaring only that she will live peacefully, it is by no means lawful for the faithful man. If, however, we

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are dealing with a particular case, and serious consequences follow, the Roman Pontiff must be informed, to whom one must always appeal in extraordinary cases, with a note of all the circumstances. In the meantime, one must adhere to the prescriptions of the Synodus Sutchuensis and the faculties granted to the same Vicar Apostolic by the Sacred Congregation of the Propagation of the Faith. Furthermore, since, from what the Vicar Apostolic states in the third question of the second doubt, it appears that he possesses Apostolic faculties to grant dispensations to those who have multiple wives with unbelievers, so that, after Baptism, they may retain the one they prefer, if she also becomes faithful, unless the first legitimate wife wishes to convert, and in this case it is sufficient to inquire whether she wishes to convert, the Sacred Congregation deemed it appropriate to write to the same Vicar Apostolic, so that he may explain the reasons for doubting the use of those same faculties. If, however, we are dealing with a legitimate wife who is held captive and has been repudiated by another man, the neophyte must be instructed and warned to not omit the proper inquiry, from which only dispensation may be granted if the aforementioned conditions are present.

[*Latin ed. p. 73*]

APPENDIX I. 73. Concerning those just causes, which must always be observed. Furthermore, if a captive woman (assumed to be legitimate) responds that she wishes either to be converted or to live together without offending the Creator, one must not neglect to redeem her from whoever has sold her, if the means are available. However, it will never be permissible for a converted husband to sell her, even if she is found to be deceitful in her promises. Nevertheless, if a wife, belonging to the unfaithful, even after a long period of cohabitation with a converted husband, refuses to be converted, but instead attempts to remain faithful to sin, or is unjustly separated from the husband, or enters into other marriages, then the converted husband may avail himself of the privilege granted in favor of the faith, and may lawfully and validly contract marriage with another faithful woman. Moreover, it is absolutely forbidden for a Christian woman to marry a pagan; and if, after obtaining a dispensation for disparity of cult from the Holy See, such a marriage should sometimes occur, it is known that it will be indissoluble as far as the bond is concerned, and only as far as the union can it ever be dissolved, if there are valid canonical reasons recognized by an ecclesiastical judge. Therefore, as long as the aforementioned pagan husband is alive, the Christian woman will never be permitted to enter into a second marriage. If, however, we are speaking of a pagan woman, concubine to a pagan, who is converted, then, after the aforementioned inquiry, if she refuses to be converted or to live together without offending the Creator, and therefore ceases to live as a concubine (which certainly cannot be done without offending the Creator),

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she may avail herself of the privilege granted in favor of the faith. Generally, if the conversion of a spouse precedes marriage with an unbeliever, with an Apostolic dispensation having been obtained, that spouse cannot in any way avail himself of the privilege granted in favor of the faith; but if the marriage precedes the conversion, then the converted spouse may avail himself of that privilege, with the necessary precautions observed, as has been said. It must also be noted that, with regard to impediments that render marriage invalid, invincible ignorance or good faith are not sufficient to validly contract marriage. Although, sometimes (which, however, is rarely to be believed in practice), such ignorance and good faith may excuse from sin, they can never render a marriage valid if it has been entered into with a diriment impediment. Therefore, if someone goes to other regions, and there, having been instructed and baptized, takes a Christian wife, omitting the due inquiry of the first legitimate wife, he is bound to do so, unless there are reasons for granting a dispensation, as is stated in the Synod of Sutchu. Therefore, in order to clarify the proposed cases, the aforementioned Synod must be carefully and faithfully examined, the faculties of the Apostolic See must be considered, and the opinions of approved authors must be consulted. And if, nevertheless, difficulties and doubts arise, then recourse must be had to the Holy See, explaining all the circumstances, as has been said.

[*Latin ed. p. 74*]

74. Letters from His Holiness Pope Leo XIII to Gaspard Decurtins, in which he expresses his joy regarding the recent gathering of workers held in Biel, Switzerland. Beloved son, greetings and the Apostolic blessing. Nothing is more pleasing to Us than the opportunity to express our concern for the working class, whose fortunes we desire to alleviate, and to promote the virtues of humanity, justice, and charity, which the Christian religion has brought forth, and which we hope will increasingly flourish throughout the world. Therefore, in the exercise of Our ministry, We are always ready to offer assistance wherever the afflicted seek solace, the weak protection, and the poor relief. Conscious of the nobility of this office, and mindful of those who, through divine grace, have contributed to the betterment of the human race, We have spoken words of love and peace to the Catholic world through Encyclical Letters, beginning with "Rerum Novarum." We have carefully considered the condition of the workers, so that the sad discord that gravely afflicts present human society may be resolved, a discord fueled by the insatiable desires of the populace, like a dark cloud that hangs over it, and a raging storm that threatens shipwreck. We have not hesitated to urge the supreme civil authorities to act in the cause of the working people, lest such a large and defenseless multitude be abandoned and left to its own devices. Therefore, we are pleased to inform you, beloved son, of the recent

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gathering held in Biel, Switzerland, where a congress of thousands of workers, representing diverse places, studies, and religions, received Our Encyclical Letters with great favor and applause, freely acknowledging that they contain principles perfectly suited to defending their legitimate rights and establishing firm foundations (which is the desire of all) for a just order of things, from which a solid peace for human society will follow, a peace torn away from the ancient conflict between masters and laborers. And indeed, how much this salutary power of the Catholic Church contributes is demonstrated by your own testimony, you who are separated from it. For, by its very nature and institution, the Church is the mother and educator of peoples, and from

[*Latin ed. p. 75*]

LETTER 75 presents the instruments and safeguards by which the life of society, and indeed the well-being and sanctity of individuals, may be more easily promoted. Therefore, it can contribute to alleviating suffering and alleviating miseries in a consistent and generous manner. It is sufficient to remember that, as history and the traditions of our ancestors testify, the Church has always striven to abolish the evils of ancient servitude. From the fact that, by its own strength alone, it has been able to remove the disgrace that had deeply infected the human race, it is easily understood what the most excellent and effective means can achieve to alleviate the hardships and injustices that this age has imposed on the condition of human society. It is therefore readily understood that, to accomplish this work of outstanding piety and true humanity, nothing is more effective than the Christian precepts of the law, and that the doctrine of the Gospel, which governs the morals of men, should prevail. Therefore, we believe that there is no less merit in this endeavor than there is opportunity and fruitfulness in the plan by which jurists, so that through this kind of assembly the people, and especially the working class, may be imbued with the documents that we have explained in our aforementioned letters, which expound the most holy teachings of the Church, and so that, having understood them thoroughly, they may be certain that what they legitimately seek for the common good is not achieved through reckless disruption of the social order, but through the salutary and righteous dominion of that wisdom which Christ, having descended from heaven, has poured forth upon the earth to govern the morals of men. Moreover, it has been demonstrated to Us that the decree of the Biennensis assembly, which calls for the establishment of new and more frequent gatherings of workers, to which those who govern public affairs should turn, so that they may enact laws that protect the infirmity of working children and women, and so that they may carry out what we have prescribed in our letters. And indeed, there is no need to elaborate on the reason for this. For, although it is a weighty and probable reason for public authority to intervene in the enactment of laws to protect

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workers, no reason can be more weighty or probable than the necessity of assisting the weakness of children and women, from which the very origins and birth of the succeeding generation arise, and from which the strength and wealth of each nation are largely derived. But, on the other hand, it is clear that it would be an imperfect protection for workers if the laws given to them by the workshops and factories were different in each city. For, while some cities...

[*Latin ed. p. 76*]

76. Letters, often bearing great importance, frequently converge to reveal that, in certain places, a prescribed order of labor and industry hinders the progress of one people to the detriment of another. These and similar difficulties can only be overcome by the power of human law. They will be overcome, however, if Christian discipline concerning morals flourishes widely in the minds of men, and if men conduct their actions according to the teachings of the Church. If this should occur, then, with ease, a harmonious helper will be added to the common good, a prudent aid to legislators and to all those who possess power, and a vigorous expression of active virtue. To you, therefore, beloved Son, who devote all your talents and efforts with such zeal to achieving so noble a goal, we wished to offer this testimony of our benevolence, certain that you will persevere strenuously in your endeavors, diligently striving to spread and strengthen the teachings contained in the documents that have been issued by this Apostolic See to alleviate the miseries of the poor and to strengthen social order. In the meantime, may the favor of Divine Providence inspire your efforts, and we impart to you and yours our paternal Apostolic blessing. Given at Rome, near St. Peter, on the sixth day of August, in the year of Our Lord one thousand eight hundred and ninety-three, in the sixteenth year of Our pontificate. LEO XIII, POPE.

LETTERS from His Holiness Pope Leo XIII to the Most Reverend Monsignor Lecot, Archbishop of Bordeaux, in which he expresses his joy that the study of promoting peace and concord is flourishing among the French.

Beloved Son, greetings and Apostolic blessing. We have received with great pleasure the letters which you sent to Us on the twenty-sixth day of July; they provide evidence of your good will and concern towards Us, as you pursue causes that are most dear to Us, namely, the good of the Church and of the French people. Indeed, from the accurate description which you have given Us of the present state of affairs in that region, we are pleased to learn that the study of promoting peace and concord is flourishing more and more.

[*Latin ed. p. 77*]

LETTERS 77 concerning the reconciliation and peace which, having repeatedly sent forth letters, we have earnestly commended to all upright

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and virtuous men here. Indeed, we have a most pleasing name, which we choose to follow, as the voices of reason dictate, rejecting false opinions and lies spread about the Church, as if it were an obstacle to the prosperity of the nation, and, moreover, that measures of equity are applied with reluctance, both to men of outstanding talent and to the common people, who are naturally inclined to think rightly. This gives us the hope that happy and most desired time will come for solid peace, so that the Gallic people may gather its scattered forces and direct them towards the common good. But even though we are pleasantly affected by these things, we cannot but feel and strongly condemn the audacity of those who, bearing the Catholic name and professing love for the religion, are so swayed by partisan interests that they dare to attack men who hold high positions in the Church of God, and even to undermine the Supreme Pastor with their conspiracies. Even if it should be the case that their actions, however misguided, should benefit a political cause that they defend, nevertheless they will clearly not enjoy the fruits of their labor, since their efforts may hinder and impede our endeavors, and oppose the salutary inclination of those who, weary of discord, are inclined towards peace. Let it not happen that, for the very sake of the safety of Gallia, those who are at odds with each other should distract the sons of the same family, and that a fraternal struggle should be prolonged, to the great detriment of the nation and the religion. Indeed, what we intend with a paternal and friendly discourse, in converting the Gallic people to our sacred ministry, can be clear to no one, nor can it be ambiguous. Long experience has clearly shown that all the affairs of the state here have been so changed that, given the present condition of things, it could not return to its former state without great disturbance. The Catholic religion, which many, albeit undeservedly, believe to foment internal discord, was called the greatest obstacle; the Church was subjected to daily vexations and animosities. These things were plainly evident. Indeed, in this very distress, we, who are entrusted with the care of religion, although we know that it is not permissible for anyone to coerce the actions of Divine Providence concerning the fate of nations, nor have we ever intended to harm the citizens or to wound their innermost feelings.

[*Latin ed. p. 78*]

78. Letters possess a certain significance, and we have observed that some, under the guise of piety, use them as a shield to obstruct, as much as possible, the public authority, which has been established for a long time: from such efforts to obstruct, no benefit is expected, but rather, a great detriment to religion results. Therefore, considering the importance of the matter, and so that the august religion might not be embittered by human desires or by the deceptive arts of political reasoning, or by any other means whatsoever, we have summoned all the citizens of Gallus, urging them to recognize and maintain the established order of the state, to forget the old

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quarrels, and to strive so that justice and equity might prevail according to the laws, to render due obedience to the Church, and to enjoy its liberties, and thus, through their efforts, to promote the common prosperity of the fatherland. Since this is the reasoning behind our undertaking, it is miserable and absurd for anyone to claim that they care more about the Church than we do, and to arrogate to themselves the right to speak in the name of the Church against the documents and prescriptions of that very one who is the guardian of the Church. We believe that among the true sons of the Church, no one will be found who approves or imitates the audacity and recklessness of such men. For we consider that the true sons of the Church are those who, without difficulty, place before all else the good of religion and the fatherland, and who readily set aside personal interests and advantages. We are not mistaken in believing that God will reward such men with abundant rewards, and that all good men will recognize their merits and praise them. Meanwhile, as a pledge of our supreme benevolence, we impart to you, our beloved son, and to the clergy and faithful entrusted to your care, our Apostolic blessing, from the depths of our heart. Given in Rome, at St. Peter's, on the third day of August, in the year 1793, in the sixteenth year of our pontificate. LEO XIII, Pope.

[*Latin ed. p. 79*]

79. BRIEF of the Most Holy Pope Leo XII, by which it is declared that the venerable servants of God, Peter Martyr Sanz, Bishop of Mauricastro and Apostolic Vicar of the Province of Fo-kien in the Kingdom of China, Franciscus Serrano, elected Bishop of Tipasitan and Apostolic Vicar of the same province, Ioachimus Royo, Ioannes Alcober, and Franciscus Diaz, Missionary Priests of the Order of Preachers, may be called by the names of the blessed. Our Predecessor of great and holy memory, Gregory, in the twentieth-seventh homily, observed: "Already there are not so many of us who are alive, as there are witnesses of the truth." And indeed, from the very beginnings, the Church has been strengthened with the blood of countless Martyrs, and never has there been a lack of wondrous examples of fortitude for posterity. Just as the sound of the Gospel has gone forth throughout the entire earth, and barbarians have sung, and in inhospitable lands, the heralds of Christ have endeavored to bring the light of the Gospel, so too, the regions of the world have been reddened with the precious blood of Martyrs. The Pontiffs, to whom divine Providence has entrusted the care of the entire flock of the Lord, have always been accustomed to solemnly commemorate the glorious memories of the Martyrs, in order to encourage the Christian people to imitate their heroic examples, and from the earliest centuries of the Church, public veneration of the Martyrs and heavenly honors have been decreed. Among these most illustrious champions and defenders of the name of Christ, whom, as St. Cyprian wrote, the Lord Jesus Himself "confirmed in the battle, raised up,

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and made victorious in His servants," rightly belong the invincible fighters for the faith: Peter Martyr Sanz, Bishop of Mauricastro and Apostolic Vicar of the Province of Fo-kien in the Kingdom of China, Franciscus Serrano, elected Bishop of Tipasitan, and Apostolic Vicar of the same province, Ioachimus Royo, Ioannes Alcober, and Franciscus Diaz, Missionary Priests of the Order of Preachers, who, in the past century, were put to death by idolatrous Chinese, detesting the Christian religion, having strenuously contended in Apostolic labors throughout their lives for the faith, and having, without any torture, given a most brilliant testimony to the glory of the Divine name with their blood. These five were most valiant athletes of Jesus Christ, citizens of the Kingdom of the Spanish realms, and sons of the illustrious Guzman family. As young men, they were drawn to these distant and barbarous regions, enduring journeys and labors, proclaiming the Divine word among the diverse peoples.

[*Latin ed. p. 80*]

80. Breve. Innumerable multitudes of peoples, inhabiting vast and boundless regions, but blinded by a superstitious darkness, and practicing atrocious inhumanities, were dwelling there. And there, the tents of Israel were being spread, the benefits of the Christian religion were being poured forth, and they themselves, devoted to charity, were entering, desiring to die for Christ. Therefore, inflamed with zeal for the propagation of the true religion and faith, and simultaneously desiring a glorious death for Christ, they did not hesitate to obey the order of their superiors and to be sent forth to preach the Gospel to the unbelievers. Having made these noble vows, they set out for China, albeit after many years. Neither the love of their homeland, nor the fury of the storms, nor the hardships of the long journey, nor the dangers of the apostolic ministry deterred them. However, they knew of the extreme cruelty of the idolaters, of the wars waged against Catholics in those regions, of the certain threat to their lives, and of the tortures that the barbarians prepared for them. Nevertheless, without any concern and without sparing any labor, they diligently performed the duties of their apostolate. Among them was the Venerable Servant of God, Peter Martyr Sanz, who, on account of his most outstanding merits, was appointed by the Apostolic See as Bishop of Mauritius and Apostolic Vicar of the Province of Fokien in the Kingdom of China, and who, with diligent study and exceptional prudence, administered the entire mission with great care and praise. During this very perilous time of persecution, which in the year 1729 had raged severely against the Christians, it seemed to have been somewhat calmed in the Province of Fokien, but it was by no means extinguished. Therefore, it was most important for the Venerable Servants of God, while diligently working for the propagation of the faith, to offer assistance to the faithful, and especially to the sick, with Christian charity, so that they might not fall into the hands of the persecutors.

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Nevertheless, many people, opening their ears to the true doctrine, were cleansed by the waters of penance, a great reformation of morals took place, and almost all the citizens of the city of Fo-gan were converted to Christ. But the Lord called these valiant champions of the faith to greater things. In the year 1746, due to the machinations of an unfaithful man, who was a military prefect, a more severe and cruel persecution of Christians broke out. This wicked man, detested even by the unbelievers, and a man consumed by an insatiable greed for gold, borrowed money from the Venerable Servant of God, Peter Sanz, but, being rejected in his unworthy request, he was consumed by indignation. And immediately, he presented a libelous accusation to the Supreme Tribunal of the Province, claiming that the laws of the city were being violated by Europeans preaching the Gospel.

[*Latin ed. p. 81*]

BRIEF 81: Hospitality was not to be refused; the Emperor's decree led to the persecution of many thousands of Christians. He designated missionaries and the names and places of the faithful where they held their gatherings. To Pro-Reg, the most bitter enemy of the Catholic name, an accusation was brought, and immediately a terrible war was declared against the Christian people in the province of Fo-kien. Armed bands of soldiers, guided by an unscrupulous accuser, ravaged the countryside, plundering the homes of the faithful and desecrating sacred objects. The first to suffer were the Venerable servants of God, John Alcober, and later, the Venerable Joachim Royo, who, after having long wandered here and there, were finally seized and, at the command of the Bishop of Mauritius, were handed over to their persecutors, so that the fury of the infidels against the Christians might not be restrained. Soon after, in the city of Fo-cheul, utterly exhausted by the long journey and hunger, they were led away in chains and shackles, and detained in public prisons, where they exhibited remarkable examples of patience, piety, constancy, and fortitude. Repeatedly brought before the tribunal, repeatedly questioned by cruel judges, they repeatedly affirmed their faith with an unwavering and courageous spirit, and they preferred the pain of torture and the anguish of condemnation to abandoning their faith, burning with the desire to shed their blood for Christ. "They stood firm," as we read in the words of St. Cyprian, "stronger under torture, and the most severe and repeated blows could not overcome their impregnable faith." Among the prisoners, and even those who came to see them, and other captives, they spoke with such fervor about the true religion that they strengthened the hearts of the faithful, and even inspired admiration in the idolaters. After a full year had passed since the Venerable servants of God were imprisoned, they were brought before the highest and second judges, and even before Pro-Reg himself, to hear their case. Having spoken, and having individually, again and again, confessed their Catholic faith,

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they had defied the customs of the Chinese, and had been condemned; and, with all legal proceedings duly observed, the matter had been brought to the point where a sentence would be pronounced. Therefore, Pro-Reg, seated before the tribunal, addressed the five Venerable servants of Jesus [Christ], and pronounced the sentence in these words: "Peter Sanz, and those who, as the head of the Christian religion, corrupt men and women with their false doctrine, shall be beheaded; Francis Serrano, Joachim..."

[*Latin ed. p. 82*]

82 A brief dispatch reports that Francis Diaz, John Alcoberet, and others, for having propagated a "false doctrine" and misled the people, have been condemned, and are awaiting their sentence in prison. Like sailors who, after a long voyage, finally glimpse the harbor, the Venerable Servants of God are filled with great joy and rejoicing upon hearing this news, but alas! their Catholic faith is met with burning hatred. The Pro-King immediately sends this dispatch to the Emperor, urgently requesting his supreme sanction through fervent prayers. Therefore, a few months later, after the Emperor's sentence has been confirmed, the Venerable Servant of God, Peter Sanz, Bishop of Mauriacastre, is brought from prison to the Pro-Registry court; there, before the city governor and the prefect of the militia, he publicly proclaims the final sentence and the supreme sanction. He is then immediately led, with two ropes tied behind him, between soldiers and executioners, to the place of execution. A tablet hung around his neck bore these words: "By order of the Emperor, Peter, because he deceives and corrupts the hearts of men with false doctrine, let him be put to death, for the example of all." With remarkable piety and charity, he encouraged the faithful who were overcome with grief and sadness, saying, "Be of good cheer; is it not right that we should rejoice because we are put to death for the law of God?" Almost unable to bear the pain of the bonds, he fervently raised his prayers to God, and with his own voice and will, he expressed the joy that burned within him. Upon arriving at the place of execution, at the command of the executioner, he knelt and prayed for a short time, until his prayers were fulfilled; after this, he turned to the executioner and, willingly and cheerfully, offered his neck. Meanwhile, four other surviving Venerable Servants of God awaited the new decree in the custody of the guards, their faces reflecting the barbarity of death. They showed the faithful this sentence as a sign of glory, and constantly prayed to God that they would not be deprived of the most desired martyrdom. Just two months after the death of the illustrious Mauriacastre, a certain pious priest, Francisco Serrano, imprisoned in the city of Industria, received Apostolic letters, in which he himself, the Bishop of Tipasa, announced that Peter Martyr Sanz was appointed as his Coadjutor for the administration of the Apostolic Vicariate

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of the province of Fokenreg.

[*Latin ed. p. 83*]

Brief 83 was being prepared, for the news of the martyrs had not yet reached Rome. But the glorious end of their pastoral work was approaching. Already, rumors were spreading among the people that the emperor intended to commute the death penalty for the captives and missionaries, and that a new Pro-King, who held Christians in no less contempt than his predecessor, had, in consultation with the leading citizens and officials of the city and province, secretly decreed that the Servants of God should be put to death, and that he would subsequently report to the emperor that they had died of prolonged custody and hardship in this life. Thus, on a certain night, the wicked agents burst into the cells of the Venerable Servants of God, and first slew Francisco Serrano and Joachim Rovo, who, though expecting them, received them with gentleness and were glad to hear the news of their impending death; afterwards, Francisco Diaz and Joan Alcober were strangled with ropes. Thus, the most ardent defenders of the faith paid the price of their precious blood with their immortality. Thus, the first missionaries sent from the illustrious Order of the Preachers to proclaim the Gospel attained the glorious palm of martyrdom; and they added a new honor and ornament to the Order, which had already distinguished itself so much in the service of the Catholic faith. Nor were heavenly signs lacking. Indeed, the miraculous preservation of the bodies, the supernatural splendor emanating from the remains of the Venerable Servants of God, the conversion to the faith of some of the most stubborn unbelievers, and finally, the terrible punishments that befell the tyrants and other perpetrators of the murders, clearly confirmed the glory of the martyrs. Therefore, the cause of their Beatification was begun before the Congregation established for the proper observance of the rites; and after the due legal investigations were completed, and after it was declared that the martyrdom of the five Servants of God was established, on the 15th of June in the year 1777, by Our Predecessor, Pope Pius VI, the work was begun. Afterwards, after a full century had elapsed, we decreed on the 11th of November of the preceding year that the signs confirming the martyrdom itself had been fulfilled. With these things accomplished, only one thing remained to complete the cause, namely, that Our Venerable Brothers, Cardinals of the same Sacred Congregation, should be asked whether, as stated above, the approval of the cause of martyrdom, being illuminated and confirmed by so many signs from God, would allow for a safe procedure to be followed in conferring the honors of the Blessed upon the same Servants of God; and this was done in a general meeting held before Us on

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the 13th of January of this year.

[*Latin ed. p. 84*]

84. With unanimous consent, they responded. However, in this most important matter, We delayed, until, through fervent prayers, We sought the assistance of the Father and the Son. And when this had been done, on that very day, when the Author of our salvation was worshipped in the cradles by the Magi, We solemnly decreed that the Beatification of the aforementioned five Venerable Servants of God might proceed. Now that these things are so, We, also moved by the prayers of the entire Order of Preachers, by Our Apostolic authority, grant to those present the following faculty: that the Venerable Servants of God, Peter Martyr Sanz, Bishop of Mauricastro and Apostolic Vicar of the Province of Fo-kien in the Kingdom of China, Francis Serrano, elected Bishop of Tipasa and Apostolic Vicar of the same Province of Fo-kien, Joachim Royo, John Alcober, and Francis Diaz, Missionary Priests of the Order of Preachers, be henceforth called Blessed, and that their bodies or relics, although not to be carried in solemn processions, may be publicly presented for the veneration of the faithful, and that images of them may be made. Furthermore, by the same authority, We grant that the Office and Mass be recited for them in common with the Martyrs, with their own proper prayers, according to the rubrics approved by Us in the Roman Missal and Breviary. We grant, moreover, that the recitation of this Office and the celebration of the Mass may be permitted within the boundaries of the Apostolic Vicariate of Fo-kien, and in all temples and monasteries of the Order of Preachers, by all Christians who are bound to recite the canonical hours; and with regard to the Masses, by all secular and regular priests who come to the churches where the feast is celebrated. Finally, We grant that the solemn Beatification of the aforementioned five Martyrs be celebrated in the aforementioned churches, with an Office and Mass of a double rite; and We command that this be done on a day to be determined by the Ordinary within the first year, after which the same solemnities shall be celebrated in the upper hall of the portico of the Basilica of the Vatican. Notwithstanding any constitutions and ordinances Apostolic, and decrees concerning the cult, and all other contrary things whatsoever. We wish that examples of these liturgical texts be also printed, and that they be provided with the signature of the Secretary of the Congregation for Sacred Rites and be sealed, so that the same may be observed with unwavering faith and without any doubt.

[*Latin ed. p. 85*]

BRIEF 85, concerning a judicial case, is presented for the signification of Our will. The matter is thus explained: In the year 1893, on the seventeenth day of April, under the seal of the Fisherman, in the sixteenth year of Our Pontificate, was given at Rome, near Saint Peter.

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L. * S. SERAPHINUS CARD. VANNUTELLI.

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FROM THE HOLY CONGREGATION OF THE COUNCIL, CASTRIMARIS, CONCERNING MARRIAGES.

On the sixth day of May, 1893. Session 24, chapter 3, concerning the reform of marriages.

On the first day of December, 1874, in the Cathedral Church of the Diocese of Castrimaris, according to the rites of the Holy Roman Church, Charles Crei, aged 28 years, and Paulina Gambardella, of established age 22 years, were joined in marriage. However, by a contrary decree, it came to pass that the spouses, first concerning the dowry and then also concerning the property in Tocco, sought separation; until, by the sentence of the Civil Tribunal, published on the eleventh day of April, 1881, the nullity of their marriage was declared, due to the husband's absolute impotence, which was antecedent and perpetual. Having obtained this sentence of nullity, the woman entered into a civil marriage with another man; but afterwards, contrite, she presented humble petitions to Our Most Holy Lord, that He would deign to canonically declare the nullity of her marriage with Charles Crei, in order to contract marriage with the man with whom she was civilly united, and from whom she could not legally separate.

SUMMARY OF THE CASE.

[*Latin ed. p. 86*]

CASTRIMARIS 86. A Synopsis of the Arguments. In order that the woman's petition may be adequately addressed, three points, if I am not mistaken, must be investigated, and demonstrated from the records of the process, said the Consultant, namely: 1. Whether it is truly established that, in this case, the marriage was never consummated, due to the husband's impotence; 2. Whether it is truly established that the husband was found to be in such a condition that he absolutely could not consummate the marriage; 3. Whether it is truly proven that the husband's impotence, not only absolute and preceding, but also perpetual, remained. I will briefly examine each point with regard to the facts: for once the facts are clearly established, it will be for you, Most Wise Judges, to declare what the Sacred Canons prescribe, and what theological doctrine teaches. Therefore, it can be demonstrated, with numerous arguments, that the marriage, as the matter at hand, was never truly consummated, and that due to the husband's impotence, by considering those things which preceded the marriage, or were concurrent with it, or followed it. And indeed, while the marriage was being arranged, a skilled physician, Master Nicholas Scherillo, who was assisting the families of Crei and Gambardella, and who therefore knew the young Charles very well, warned Paulina's father

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to prevent the marriage, either because Charles was unfit for marriage. The same is testified by Aloysius Lanni, who, having repeatedly seen Charles Crei unclothed, descending into the bedchamber, and having observed the conformation and coldness of his virility: as soon as he heard that Charles was to be married to Paulina Gambardella, he maintained that such a marriage could not have a happy outcome, either because he considered Charles to be unfit for consummation. Indeed, from the same experience, the same is testified by Nicholas Di Martino, and also by Anthony Rosati, who all foretold the outcome of the marriage before it was contracted. And what these men foresaw was fully confirmed from the very first night of the marriage: for the parties themselves confessed that all efforts to consummate the marriage were fruitless.

VOTE OF THE THEOLOGIAN.

[*Latin ed. p. 87*]

CASTRIMARIS 87, although repeated several times. This is confessed by a woman of whose veracity the fullest testimony is found in the Acts. This is confirmed by Charles himself, when he states that he did not experience an erection of the member, neither on that first occasion, nor ever afterwards; and therefore, he concludes, he never achieved marital union. Nor should we overlook a very serious circumstance, which demonstrates the parents' conviction of the son's impotence. It is recorded in the Acts that Charles' mother wished to be present on the first night of the marriage, and in fact was present, in order to instruct her son in the manner in which he should behave; but in vain, because the son remained cold, as he was. But all of these things are most clearly confirmed by the consequences. From the very first days of the marriage, the rumor spread among the people that Charles was unable to consummate the marriage, and therefore, almost immediately, quarrels arose between the spouses, to the point that the woman would defile the man's face with her fingernails, and the woman's hair would be torn by the man. And the man, recognizing the gravity of the situation, was so overcome with rage that he was feared to be falling into madness, and the woman seemed to be losing her health due to her illness. Therefore, it happened that they were separated from each other, and this was done by the advice of the doctors and the will of Charles' parents. And this was not enough; for Charles' father, I know not by what conscience, urged his son to associate with prostitutes; indeed, he himself often wished to be present at this shameful crime, in order that he might be compelled to acknowledge the absolute impotence, whether he willed it or not. This impotence was confirmed by experiment by the witness Benedict Pellerano, who, having seen Charles unclothed and attempting acts of lust, completely proved him to be incapable of marriage. And the same was done by another witness, Joseph Rossetti, who, through interrogations, amorous words, and

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lascivious incitements, was unable to remove Charles from his frigidity. To these things must be added that, during the marital life, Charles, at the advice of his father and father-in-law, consulted several expert doctors in order to receive appropriate treatments, but he never benefited from them. Indeed, the very doctors changed the treatments.

[*Latin ed. p. 88*]

88 The inhabitants of Castrimare were scandalized, and they rebuked the father, either because he forced his son into marriage, thereby making a woman unhappy, or because the marriage was not consummated. And this is confirmed by the fact that, after the separation, the woman was examined by her aunt, Rosa Gambardella, and was found to be a virgin, showing no signs of having been violated. This was deduced from certain undeniable signs by another witness, Gelsomina Gambardella, the sister of the actress. All of this, it is clear, quickly reached the ears of others, as can be gathered from the testimony of Alphonso Gambardella. Therefore, when Charles' parents spoke with the parents of Paulina about this marriage, they openly lamented the son's impotence, and they praised Paulina for having borne this situation with equanimity. Thus, from all of these things, it is clearly demonstrated that the marriage in this case was never truly consummated, and this is confirmed by the most certain arguments regarding the husband's impotence. Someone might perhaps object, offering a stronger argument, drawn from the expertise of physicians, who alone can legally testify about impotence. But you must know, Most Wise Judges, that I have deliberately refrained from presenting this argument based on the expertise of physicians, because I intend to use it to prove another part of the demonstration, which consists entirely of investigating whether Charles was even able to consummate the marriage. If it is established, by the expertise of physicians, that Charles was not able to consummate the marriage, then it will be all the more clearly proven, with regard to the matter at hand, that he did not truly consummate it. However, the situation is as follows. To make this clearer, I note that the very same expertise of the physicians was adopted by the Ecclesiastical Tribunal, which was written down for the Civil Tribunal. In order for it to have legal force even in the ecclesiastical forum, D. Carmelus Patamia, one of the physicians who wrote the expertise for the Civil Tribunal, was called. And here, after taking a religious oath before the holy Gospels, he confirmed the written expertise in all respects, in accordance with what he had testified for the Civil Tribunal. Indeed, from this expertise of the physicians, two things remain most clearly proven: 1. Charles was found to be in such a condition that...

[*Latin ed. p. 89*]

CASTRIMARIS 89: The male member is incapable of erection; 2.

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Charles's male member is so formed by nature that, even with erection, true marital intercourse is and remains impossible; and this for two reasons, namely, first, because of the enormous mass of the foreskin, which prevents the male member from reaching the female organ, and second, because of the weakness of the same foreskin, which completely opposes marital congress. Therefore, it is evident, under such conditions, that consummation is impossible; for there is true consummation where true marital intercourse is possible. But in this case, true marital intercourse could not be had. Therefore, true consummation was entirely and absolutely impossible. Thus, two facts have been sufficiently and legally proven, namely, the absence of consummation and the impossibility of obtaining it, given the conditions in which Charles was found. But are these conditions such as to sufficiently demonstrate the permanence of impotence? Expert physicians give an affirmative answer. But I, although a layman, do not believe that this affirmative answer is sufficiently demonstrated. And indeed, there are three principal reasons on which expert physicians rely to demonstrate the permanence of impotence. They say that 1. the length of the male member does not come from the cavernous bodies, which they say are small, thin, and rigid; but rather from the abnormal length and varicosity of the foreskin; therefore, they consider erection to be impossible; 2. they assert that Charles is weak, and therefore incapable of male potency; 3. finally, they acknowledge that, from the very mass of the foreskin, neither intercourse nor future potency is possible. But, on the contrary, 1. the judgment about the cavernous bodies does not provide certain proof unless they are examined in a state of erection, according to what was asserted to me by a very distinguished physician, whom I considered it necessary to consult in this case and on this matter. Therefore, from this first reason of the physicians, the permanence of impotence cannot be deduced with absolute certainty, but only with a high degree of probability; 2. Furthermore, contrary to the expertise of the physicians, they themselves...

[*Latin ed. p. 90*]

90. The inhabitants of Potenza do not assert with absolute certainty that Charles is impotent, but they merely say that it appears so. However, from the fact that Charles is probably impotent, it does not necessarily follow that he is certainly impotent. And this, on the hypothesis that there truly exists an absolute connection between physical impotence and mental infirmity, which I maintain must be denied; for I have heard from many physicians that mental infirmity can sometimes be associated with vigorous potency. Furthermore, given the medical expertise in this case, it would be necessary to say that Charles does not lack potency, since, according to the testimonies presented in the court, it appears that his mental infirmity can be excluded. 3. Finally, I observe, contrary to the medical expertise,

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that the physicians do not state whether that mass of foreskin, which impedes coitus, could have been removed by surgical operation. It may be that today this operation is perhaps impossible, since Charles is now 46 years of age. But when Charles entered into marriage, he was 28 years old, and 35 when he was examined by the physicians. Therefore, if at the time he entered into marriage, a surgical operation was possible, then certainly the marriage was valid, even if it could not be consummated due to an external impediment. The same would have to be said in this case as in the case of a woman who is sterile; therefore, it must be held that, according to canon law, a marriage is not rendered null by an impediment that can be removed. I know, Reverend Fathers, that from the testimonies of witnesses and from the facts that I have mentioned above, it can be clearly deduced: 1. that Charles did not, in fact, consummate the marriage; 2. that he was and remains in such physical conditions that he could not consummate it; 3. that he will truly remain in this state; but since juridical proof of this permanent impotence must be obtained either from a three-year trial period, which was not the case here, or from the testimony of experts, which in this case does not entirely eliminate doubt; hence, it is juridically proven that the marriage was not consummated, and that the impossibility of achieving consummation is due to an external impediment; but intrinsic impotence, and its permanence, are established only with moral certainty, and not with juridical certainty.

[*Latin ed. p. 91*]

CASTRIMARIS, 9th. Given these circumstances, when considering the matter, especially because the woman is found to be civilly joined to another man, and it is clearly and legally established that the marriage was not consummated due to at least an external impediment, and when valid arguments are presented, which at least provide moral certainty regarding the existence of an intrinsic impotence, and one that is perpetually enduring, I believe it is possible to arrive at this conclusion: "Considering all things, one should petition the Most Holy Father for a dispensation from a marriage that is valid but not consummated, in this case." And this, unless the Most Eminent and Reverend Fathers deem it appropriate to declare the absolute nullity of the marriage. OPINION OF THE CANONIST. It is well known that the purpose of marriage is the procreation of offspring, since the natural union of the sexes is instituted from the beginning for the propagation of the human race: "Grow and multiply," says the Creator of all things, to the parents. Therefore, He made them male and female. As Saint Thomas says, "This distinction of sexes is ordered to the act of generation, which is the end to which both sexes are ordained by nature, and to which each has been given particular members suited for this purpose." Such multiplication cannot be achieved except through copulation; therefore, in the marriage contract, which the Lord Christ established for

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the dignity of the Sacrament, each party gives to the other the power over their body, with the obligation of rendering what is due, and each party is strictly bound to render it, so that the purpose of marriage is not frustrated. Therefore, since the giving of the body is an intrinsic part of marriage, if there is something in it that prevents the act of copulation, the marriage is null; and he who knows himself to be absolutely incapable cannot obligate another to use his body, and it would be contrary to natural law to attempt such a union. From these considerations, it is easily deduced that the marriage in question, due to the husband's antecedent, absolute, and perpetual impotence, must be declared null. Furthermore, it will be superfluous to define impotence. Paulina Gambardella, urged by her father, celebrated a marriage with Charles Cler, a young man, who, in the opinion of all, was impotent.

[*Latin ed. p. 92*]

92. The woman from Weringhof was a bard. Nevertheless, in order to follow the example of her parents, she duly, before the Church, on December 16, 1874, entered into marriage with Charles: and they cohabited, but although they experienced conjugal relations many times, they were never, nor even slightly, able to consummate them. The bride knew that Charles was afflicted with such and so great a frigidity, that he was never able to erect his member, and consequently, he was never able to ejaculate fertile seed, so that all subsequent unions were always frustrated and fruitless. Charles' father, having discovered this, consulted physicians, used medicines, but in vain; and finally, scarcely believable, he called a prostitute, and ordered her, before him, to attempt to have relations with him, but the attempt was fruitless. From these things, it is easily understood that Charles Cler suffered from certain and absolute impotence. Therefore, as theologians and canonists teach, further attempts are not to be permitted, since it is against the law of nature to attempt to consummate a marriage when impotence is certainly and openly known and proven.

What, meanwhile, of Paulina, who neither remained married nor unmarried? After seven years from the civil tribunal in 1881, she petitioned and obtained the dissolution of the marriage contract, due to Charles' impotence, legally or judicially asserted by physicians. But afterwards, seduced by a different love, she gave herself to another man, and entered into a civil marriage, as they call it, and today she lives with him. However, moved by the spur of conscience, she strongly desires to make peace with God, and therefore she begs the Most Holy Lord in this humble petition, that He would deign to pronounce the nullity of the marriage with Charles Cler, so that, having obtained this, she may be legitimately joined to another. Therefore, the question is asked whether the marriage between Charles Cler and Paulina Gambardella was null and void due to the impediment of the husband's impotence, and whether the marriage remained uncon-

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summated: but, since absolute impotence has been proven in the husband, unconsummation clearly follows. To ascertain the truth, according to the law, the following must be carefully considered: 1. The confessions of the spouses. 2. The testimonies of witnesses. 3. The judgments or inspections of experts. If from these...

[*Latin ed. p. 93*]

Castrimaris, in ninety-three chapters, will demonstrate that Charles was impotent, and that this impotence was present from the beginning, and that the marriage with Paulina was, and is, absolute, perpetual, and that it can also be shown to be null and void.

1. The Confession of the Spouses. — Paulina, who is an actress, having been summoned to testify by the Judge in the court of Bari, and after taking an oath, clearly and without ambiguity, answered the questions posed by the Defender of the Bond, stating without contradiction that after the beginning of her marriage with Charles, she had experienced several carnal unions, but these were fruitless and ineffectual; indeed, because of the groom's insuperable frigidity, he was never able to erect his virile member, which always remained flaccid and inert, and she testified that he had never even slightly emitted a prolific seed. She repeatedly affirmed the futility of these unions, and furthermore added that she knew that Charles had used medicines to arouse himself, but without success and to no avail. Since consummation was absolutely impossible, after a separation regarding the bed, no union was ever attempted between them again. However, due to the imprudence of Charles's parents, his impotence became known to everyone. Thus, Paulina Gambardella testified in court. But the other spouse, the principal party, Charles, the Cleric, must also be heard. He was legally summoned to the court of Naples, and after taking an oath on the Holy Gospels, when questioned by the Defender of the Bond, he plainly and without contradiction confirmed the depositions of Paulina: namely, that he entered into the marriage not of his own free will, but by the will of his father, and that, as it seems, he was ignorant of his marital duties. Therefore, he, together with the bride, testified that he had attempted to have intercourse with her several times, but in vain, and that he had achieved nothing; because his virile member was never able to erect due to an invincible frigidity. When the father learned of this, he called the woman, who was already corrupted, and wanted her to experience intercourse with him in his presence, and with him instructing her, but even this experiment was futile and ineffectual, and was repeated not once. Thus, he concluded his testimony, stating that the marriage was absolutely null.

[*Latin ed. p. 94*]

The matter concerning the marriage of Castrimaris remained unresolved.

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Therefore, it is established through the unanimous and concordant judicial confession of both spouses that there was impotence experienced, observed, and consequently, the nullity of the marriage arises. However, the confession of the spouses, made after the beginning of the marriage, does not immediately possess probative force; rather, it is itself, and by itself, devoid of all force, as the laws proclaim; but it must be examined along with other types of evidence. Therefore, let the Witnesses be heard.

2. The Witnesses, called by Paulina, were relatives, affine, and friends of the family; all of them, after taking an oath and reading Paulina's deposition, were questioned by the Judge, and with unanimous agreement, they unanimously declared her to be entirely incapable of lying. Regarding the impotence of the groom, they testified that they had heard about it from everyone, and that they were certain that the marriage had never been consummated due to the aforementioned impediment in the man. At the request of the Roman Curia of Bari, the trial was properly instituted in the court of Castrimaris, Stabiae, and the Witnesses, namely, relatives, affine, and friends, including priests, were summoned. All of these, after taking an oath, affirmed, more or less, what they had heard, and with one voice, they confirmed the widely known impotence of Charles Crei, combined with weakness. But the Witness, Martin, also testified based on what he had seen, stating that he had seen Charles's genitals, which were most imperfect and unfit for procreation.

Thus far, Witnesses from both sides have been summoned and heard in the courts of Bari and Castrimaris. But, at the command of this Holy Congregation in Naples, D. Charles Cler was also summoned to appear before the court, and after him, the Witnesses. Charles confirms everything that he has previously stated, namely, he openly confesses his own impotence and the lack of consummation of his marriage, and he does not contradict anything that Paulina said in court. But the Witnesses summoned regarding Charles's impotence testified in a more emphatic way, stating that it was absolute, permanent, and indeed, Joseph Rossetti, a man of considerable standing, testified with particular attention...

[*Latin ed. p. 95*]

CASTRIMARIS notes that, having observed weakness in Charles, his value could be called into question. Other witnesses testified that they had heard of Charles' impotence, but two also testified that they had examined his body, and judged that his genitals were completely unfit and incapable of performing the act of copulation. 3. The legal judgment of experts: When Paulina Gambardella petitioned the civil court to declare the civil contract dissolved due to the husband's impotence, the civil judge selected three medical experts to examine Charles' physical condition. These experts diligently and accurately performed the task assigned to them, and finally, unanimously concluded that Charles' genital organs were imperfect and

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unfit for marital intercourse, and that he was therefore afflicted with an incurable and permanent impotence. The legal judgment of these experts is presented at the end of the ecclesiastical process, which, if it pleases, can be admitted in this sacred forum, as desired by the Bariensi Curia. However, the physical examination of the woman was deemed superfluous and unnecessary. Therefore, if one considers what has been judicially collected in Bari, Castrimaris, and Neapoli regarding this case, it seems impossible to doubt Charles' impotence, and consequently, the consummation of the marriage with Paulina Gambardella, provided that the confessions of the spouses, the testimonies of witnesses, and the judgment of the experts are considered. Indeed, impotence judicially proven renders marriage null and void, according to natural, divine, and human law, since the purpose of marriage is procreation. Therefore, in my opinion, it should be judged null and void, and I agree with the Most Reverend Archbishop of Bariensi, who has shown himself to be favorable to the restoration of the unfortunate Paulina, and who urges that she be removed from the illicit union as soon as possible.

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE OFFICE. Paulina Gambardella, who married Carolum Crei on December 16, 1874, reduces him to a useless piece of wood, and therefore proclaims the marriage to be imperfect and invalid. Learned consultants, theologians, and canonists, among themselves,

[*Latin ed. p. 96*]

96. The opinions of CASTRIMARIS are not in agreement: for a most distinguished theological consultant believes that the nullity of the marriage is not sufficiently proven, but that there is room for a dispensation; while the canonist, without any ambiguity, declares the marriage to be invalid. To adequately demonstrate that I have fulfilled my duty, I must show that neither the nullity of the marriage, nor its consummation, has been sufficiently demonstrated according to the law. Indeed, the principal argument by which the consummation of the marriage and its nullity could be demonstrated was the examination of the body of Caroli Crei, performed by three archpriests. This is flawed, because the physicians did not act as ecclesiastical judges, as the laws prescribe, but rather as lay magistrates acting under orders. Furthermore, I lament the testimony of the seventh witness, which supports the alleged confession of the spouse, because the sisters of Caroli refused to attend the judicial examination; nor do I see the spouse's chamber examined. Although, even without them, the testimony of the seventh witness is often of little weight, because witnesses of this kind amplify facts, circumstances, and details, often saying much more than is true; indeed, they sometimes even contradict the truth, as they believe it will benefit the party they are supporting. Moreover, the patron of Paulina vehemently opposed the magistrate's order to examine

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the body. Here, I ask: if Paulina, after her marriage, remained intact, as the witnesses of the seventh witness affirm, why did the patron refuse the obstetric examination? With these considerations in mind, the following propositions are to be examined: I. Does it appear that the nullity of the marriage in question is established? And, if not: II. Should consideration be given to a dispensation regarding the marriage, which was contracted and not consummated in this case?

RESOLUTION. The Holy Congregation, after deliberation under the date of May 6, 1893, decided to respond:

[*Latin ed. p. 97*]

CASTELMARRE, March 9. To the Reverend Fathers. Regarding the prohibition to a married man from contracting a new marriage. I. Thus says the Sacred Council; the impediment is absolute. II. It has been provided in the first instance that marriage is nullified if there is a lack, on one hand, of the aptitude for natural union of the sexes. Furthermore, the mutual exchange of bodies for the procreation of offspring pertains to the intrinsic essence of marriage; and therefore, it can in no way be contracted whenever there is some impediment to the exercise of the conjugal act.

ALEXANDRIA, March 18, 1893. PAROCHIAL LAWS. Session 24, Chapter 13, Concerning Reforms. SUMMARY OF FACTS. In the unfortunate era of the French invasion, of the nine parishes that were formerly counted in the city of Alexandria, two were suppressed by imperial decree in the year 1806, and thus their number was reduced to only seven. Furthermore, imperial decree was added to and ratified by ecclesiastical authority. Indeed, on March 14 of the following year, the Prelate Villaret, Bishop of Casale Monferrato and Ordinary of Alexandria, ordered the execution of the aforementioned decree, and furthermore designated the territory of each parish. This designation was made in these words: "The Church of St. Mark, which was a collegiate church in place of the Cathedral, includes the areas of the city located under the civic numbers 2, 21, 22, 23, etc." Furthermore, the parish of St. Mary of the Snows, or St. Lawrence, in addition to the urban areas also described under civic numbers, included "also the following properties, namely the property otherwise called Giovanni Prati, now called Mazzola, located outside the city, as well as another called La Moiza and Moizzetta, another, etc." Thus, things stood until the year 1825, when the Bishop of Alexandria, Alexander d'Angennes, presented the Acts, Volume XXVI, page CCCII, to the people of the parish.

[*Latin ed. p. 98*]

In ALEXANDRINA, desiring to provide more complete assistance to Saint Lawrence, who resided outside the city, on February 12th, a decree was issued, of which the principal part is presented here. "Whereas, during a recent pastoral visitation conducted by Us, We discovered a certain

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district outside the walls of this city, which formerly belonged to the suppressed parish of Saint Andrew and others, and which for approximately twenty years has been subject to the collegiate and parish church of Saint Mary of the Snows and of the Court, and of Saint Lawrence within this city; and whereas, in this same district, there are five hundred or more parishioners; and whereas, due to the distance of the place and the difficult road, especially during the winter, the elderly, children, and the weak are unable to attend divine services and receive the sacraments without great difficulty; and whereas, if the gates of the city are closed at night, as often happens, the sick, in particular, are deprived of the spiritual assistance of the sacraments, or must receive them with considerable delay; therefore, We have decided to proceed with the division and the erection, respectively, of a new parish. Therefore, after careful inquiry regarding this matter, and after hearing the aforementioned Archpriest Bandolino of the church of Saint Mary of the Snows and of the Court, and of Saint Lawrence, as recorded in the proceedings, We hereby divide and separate, with the consent of Our Chapter, the aforementioned district, or territory located outside the Genoese Gate, so called, and which has hitherto been subject to the aforementioned parish church of Saint Mary of the Snows and of Saint Lawrence of this city, along with the inhabitants and families residing therein, and We hereby attach it, by Our ordinary authority and by the authority delegated by the Council of Trent, to the aforementioned parish; and, until a new parish church is built by the parishioners in the center, or in another more suitable location designated by Us or Our successors within the aforementioned territory, We hereby erect the church of the fraternity in this city, located near the Genoese Gate, under the title of the Most Holy Cross, along with its place and district, into a parish church—thus We erect and establish it, and We declare that We intend to erect it under the invocation of Saint John the Evangelist."

[*Latin ed. p. 99*]

ALEXANDRINA 99. Meanwhile, Gallic dominion had been overthrown, and the city of Alexandria was once again placed under the rule of the King of Sardinia, according to the terms of the convention of the year 1814. It was ordered that the fortifications or ramparts erected there be destroyed. However, this demolition proceeded only slowly, so that until the year 1857, no dispute arose concerning the territory of the demolished fortifications. Indeed, as is narrated in the opinion issued in the present case by the Vicar General, when the ancient walls of Alexandria had almost disappeared, and new fortifications had been constructed far from the city, the canons of Saint Lawrence considered that they pertained to their collegiate church, and to the railway station built within the area of the new ramparts. But the question was settled by irrefutable arguments. Nevertheless, for thirty years, the controversy grew more intense and widespread. In the year 1887,

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not only the parish priest of Saint Lawrence, but also the Chapter, together with the parish priest of the Cathedral and the prior of Saint Alexander, petitioned the Bishop to declare that the places where the ancient walls were being erected to the south of the city belonged to the urban parishes, and that the external boundary of the aforementioned area extended at least as far as the present ramparts. To this, the parish priest of Saint John objected, and it was declared that the territory originating from the circular walls of the city, within the jurisdiction of the Tanaro and the Marengo gate, already belonged and now belonged to the parochial district of Saint John the Evangelist. Furthermore, it was declared that the seat of the walls also belonged to the parish of Saint John. In the matter, which was discussed before the Vicar General on March 4, 1890, the following judgment was rendered: 1. The appeal is rejected. 2. The entire territory which formerly belonged to the collegiate and parochial church of Saint Mary of the Snows, and Saint Lawrence, etc., belonged and belongs, without controversy, to the parish of Saint John the Evangelist, as it was at the time when the decree of February 12, 1825, was issued. 3. The parish priest of Saint John the Evangelist may exercise parochial jurisdiction over the aforementioned territory.

[*Latin ed. p. 100*]

100 ALEXANDRINA, in which fortifications were being erected closer to the city, until the parties involved either formally demonstrated their own legal authority over the aforementioned territory. From this decision, the Chapter, together with the Cathedral parish and the parishes of St. Lawrence and St. Alexander, interposed an appeal before the Holy See. A Synopsis of the DEFENSE of the CHAPTER and the PARISHES, etc. He who undertook to defend the rights of the parties involved believes that the decision was fundamentally flawed in its interpretation of the laws of the courts, since, while ordering the preservation of the possession in question, it did not resolve the controversy, beyond what had been requested in the petition. Furthermore, he observed a strong presumption in favor of the urban parishes, so that, if it were not a matter of a law already established, but of a law to be established, it would suffice to secure the rights of only three parishes. He states that the most recent buildings erected in the extreme part of the city, which gave rise to the cause, are not only located within the city, but are also more than a mile distant from the nearest rural parish buildings. To support his claims, he invokes the testimony of the surveyor Callegaris and the parish priest of St. Lawrence, as well as the commander of the military fortifications, who testifies that in the old plans of the fortifications of Alexandria, only one house is noted to the south of the aforementioned gate, and that it is outside the walls. The house is 1266 meters distant from the walls. However, he believes that the matter should be defined by the decree of the Bishop of Usküb, d'Angennes, of the year

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1825, which speaks of the district located outside the gate of Genoa. And here, he believes that the judge of the first instance strayed from the truth, when, from the assertion that the aforementioned gate was located rather on the inner side than on the external side, he inferred that the designation of the gate established a line as the boundary between the urban parishes and the rural area. However, the fact that military authority has testified that the gate was located within the inner perimeter of the walls does not, in his opinion, definitively establish that.

[*Latin ed. p. 101*]

ALEXANDRINA 101: The advocate observes that, in law, the boundaries of parishes must be entirely certain. However, in the case of the church at novae urbis, as shown by the geometric diagram in the records, it is impossible to determine whether that church is located beyond or within the line of ianuae. Furthermore, he argues that the decree of the year 1825 had no other purpose than to separate the parishes between the city and the countryside. This, he maintains, is demonstrated by the fact that the Bishop Villaret spoke of lands outside the city, which were subsequently separated by Bishop D'Angennes. Moreover, it is evident from the fact that, after the division, the Ordinary announced it to the people with these words: "The territorial district located outside the walls was separated and erected into a new parish," and that no mention was made of a boundary established by ianuae. Furthermore, it is stated that this division between urban and rural districts was recognized not only by ecclesiastical authority, but also by municipal authority, as early as the year 1838. Moreover, the advocate points out that, in the aforementioned decree, the "district or territory" was attributed to the new parish; and, he argues, this clearly cannot refer to a small space between the walls. Otherwise, the decree would have to be understood in such a way that the jurisdiction outside the walls would be considered to be the same as the jurisdiction within the walls. The distance of the rural district from the walls, he argues, is what prevents this ambiguity. He recalls that the church of S. Ioannis is located beyond a milestone from the perimeter of the walls, and he believes this can be demonstrated from the descriptions of the houses in the decree, which state that the house "la Vescova," which is closer to the city, is located two hundred paces beyond a thousand paces from the city. With these points in mind, he believes that the addition in the decree, "if, at night, the gates of the city were to be closed," is, besides the distance and difficulty, another reason for separating the areas, and certainly not a definition of a boundary at the location of ianuae and a line of demarcation. He also notes that this is further confirmed by the plural number used by the Bishop; for if he had been speaking of boundaries, he would have said "ianua," but he said

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"ianuae."

[*Latin ed. p. 102*]

102 ALEXANDRINA. He believes that, rather than dwelling on the interpretation of words, one should consider the substance or the essence of the decree. He recounts that the Bishop d'Angennes, during a pastoral visitation, observed a certain district outside the city walls which presented the greatest difficulties for the exercise of the pastoral office. And he asserts that the distance between the places was the first obstacle discovered, a distance which, as can be seen from the geometric table in the records and confirmed by the testimony of military authorities, was considerable. Therefore, he argues: if the rural region was separated from the parish of St. Lawrence because of this distance, then, for the same reason, everything that belongs to the city and is within the walls should be separated from the jurisdiction of the rural parish. He notes that it should not be objected that the pastors of St. John have always resided within the city and still do; for, in the decree of the year 1825, the urban church was assigned to the pastor only provisionally, and until the rural church was exempted. He also points out that another cause of the separation was the rough and difficult road, especially during the winter. Furthermore, he says that no pastor has the right to interpret the decree in a way that allows him to do what the Bishop forbade to the pastor of St. Lawrence, namely, to exercise jurisdiction over both the urban and rural areas via the rough and difficult road. For, he continues, if the journey from the city to the countryside was long and difficult, it could not be easily and quickly made from the countryside to the city. Finally, he believes that a last reason was included in the decree: "if, at night, the gates of the city are closed, as often happens, the sick, in particular, will be deprived of the spiritual assistance of the sacraments, or it will be delayed." He infers that this was not the primary reason for the new arrangement, not only because the gates were not always closed, but also because this kind of difficulty concerns not only the internal defenses, but also the external ones, since access is blocked from both sides. From this, he notes, it follows that if the urban pastor could often not leave the city, then often, likewise, the rural pastor could not enter the city. Moreover, he concludes, today neither the walls prevent access to the city.

[*Latin ed. p. 103*]

ALEXANDRINA 103, although this is a valley and the most fortified of places, nor do the gates of GENOA prevent access to the countryside. Moreover, if civil seditions or a siege, or any other necessity of war, require a stricter guard, then the fortifications would undoubtedly watch both inside and outside the city, and, as reason suggests, would make entry into the city more difficult than exit from it. Finally, the speaker noted that the Bishop had said several times that the territory outside the walls. He stated

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that, with that word "walls," when it is used in the sense of something to be defended, according to the authority of Forcellini and Jacob Cortese, it refers not only to walls, but also to fortifications and ramparts constructed for the purpose of defense, and he argued that the Prelate d'Angennes understood the word in this sense. As for the law, he invoked the authority of Barbosa, *De Officiis et Jurisdictione Episcoporum*, book 32, number 71, where it is stated: "It is inferred that one who resides on the boundary between two parochial churches is considered a member of that parish in which the house has access, as noted by the learned Bartolus, in I, 6, number 6, at the end of the pages concerning damage caused; the reason for this inference is that access is used to determine to which parish the house belongs, according to the law, chapter 5, etc." Reiffenstuel, *Jus Canonicum*, book 3, title 29, number 20, concurs. Fagnanus, in Chapter "Concerning the Hearing of Church Buildings," number 10. After these points, another argument is presented, which he believes is supported by the decree of 1825 concerning the location of a parochial church, and he believes that this was also admitted by the judge of the first instance, who declared the urban jurisdiction of St. John to be impossible, stating: "Granted, even the erection of a parish... the difficulty of access, especially if the area within the walls is present, would provide a just reason for the Ordinary to separate the aforementioned area from St. John the Baptist, and to unite it with one of the urban parishes, or to erect a new parish." However, the interpretation of the decree, which would lead to a new separation, is not to be admitted, unless we wish to say that no Bishop ordered the separation in 1825. It is absurd to object that the rural church was neither built nor is being built.

[*Latin ed. p. 104*]

104 ALEXANDRINA could be established. For if it has not yet been built, it must be attributed to the disobedience of the parish priest of St. John, who, rather than building it in the "rural center of the parish," wanted to build it within the city; and for this reason, the requested land was denied by the municipal authority with these words: "It is certain that if any benefit could accrue to the parishioners of St. John the Baptist from the erection of a church, it would only come about if this building were erected among the houses that are scattered outside the Savona gate; for as long as they are forced to seek the city, the church will be as useful where it is found as where the parish priest wishes it to be; because it is only a few steps to reach the church." Therefore, the petitioner concludes from what has been said: 1) that Bishop D'Angennes, by decree of the year 1825, intended to remedy the serious inconveniences that arose from the mixed urban and rural jurisdiction; 2) to achieve this, he separated the rural jurisdiction from the urban jurisdiction by the erection of the new parish; and 3) he assigned to the rural parish priest only the district or territory outside the walls, and not the surface area of the fortifications. After these statements,

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encountering certain difficulties, the speaker begins to argue that the territory of the parish of St. Lawrence could be determined by census numbers, and that from this it would follow that the urban parish could acquire nothing, except for those numbers. However, he believes that it is sufficient to respond to the opponent, that, equally by the decree of the year 1825, he possessed nothing other than the district or territory, and that these words could in no way designate the walls or fortifications. Furthermore, he argues that if the urban parish priest in the year 1807 possessed not only a part of the urban jurisdiction, but also a rural one, it must be argued that the fortifications also bordered on him, since it would be absurd to conceive of a parish divided into two parts. And if anyone were to deny this continuity of a single body, he believes that it must also be denied that the rural houses, distinguished by numbers in the decree of the year 1807, constituted a single body with the church of St. Lawrence, which is far distant from the houses. Moreover, he observes, what could be more absurd than for parishes to consist only of houses, and not of space or houses interspersed, or of what adheres to them?

[*Latin ed. p. 105*]

ALEXANDRINA 105. He asserts that the other opinion of the parish priest of St. John's lacks validity, namely, the opinion that three parish priests should be involved in this matter, because they do not know to which parish the new buildings should be assigned. Furthermore, he argues that the right of the urban parish priests does not only pertain to the matter concerning the parish of St. John's, but also to the entire area within the walls and within sight of the entire rural territory. However, having defined the urban jurisdiction within the walls by the Sacred Congregation, it will be up to the three parish priests to settle matters among themselves and to define the boundaries of each. Finally, he believes that the response of the Sacred Congregation of May 21st of the past year, concerning Alexandria, does not contribute anything to the case of the opposing party. He recalls that at that time, the matter discussed concerned parishes separated only by walls and fortifications, and not by a plain of fields one mile in extent, and that the boundaries of the parishes had already been established by the Bishop of Oinoulhia since the year 1858, through the division of the disputed territory. Regarding the last argument of the opposing party, based on possession, the advocate for the plaintiff criticizes certain words in the judgment, in which the surface area within the demolished fortifications is declared to be "res nullius," and therefore, the parish priest of St. John's is said to have rightfully added it to his parish. Even if, for the sake of argument, we grant that the three urban parish priests failed in their investigation, this would not give rise to the right of the rural parish priest, but rather, it could be answered according to the oracle of Solomon: "Neither to me, nor to you, but let it be divided." Furthermore, since the walls are an

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accessory to the city, erected for its defense, he believes that the principle applies: "Accessory follows the principal." The advocate for the plaintiff does not claim that the judgment is based on truth when it asserts that the area in question is small, and that it could be assigned to the urban parishes. On the contrary, he believes that, based on the lithographic plan published by the prefect and recorded in the records, the new and extensive buildings were not only built on the surface area within the demolished fortifications, but also within the interior of this area. Finally, with regard to the claim of possession, he observes that we are dealing with buildings recently constructed, which are not subject to any prior possession.

[*Latin ed. p. 106*]

106. The seat of ALEXANDRINA can be established. The advocate recalls that the judgment of the four acts of parochial jurisdiction granted the parish of St. John, and that the oldest date mentioned is August 23, 1885. Regarding the alleged prior possession, he states that it refers to only one building, commonly called "the artillery barracks," concerning which the surveyor Callegaris reported: it occupies an area of approximately 450 square meters, and is located about 160 meters from the ancient perimeter of fortifications, now demolished. Furthermore, the municipal authority testifies that only two people currently reside there. Moreover, the advocate continues, several acts allegedly performed by the parish priest of St. John to demonstrate the exercise of his office in this place, if considered individually, do not amount to even one per year. Therefore, he concludes, the invocation of a long period of possession is inappropriate, since a plurality of acts of possession and use are required, as stated in Gagliardi De Iurep., vol. 1, chapter 7, number 5. Furthermore, the parish priest of St. Lawrence testifies "to having blessed the aforementioned artillery barracks on Holy Saturday from approximately 1840 to 1845, as belonging to the parish of St. Lawrence," and Peter Molinari, who accompanied him, fully corroborates this testimony in his written statement. With these facts established, the advocate recalls that, in law, the course of prescription can be interrupted by a single act of possession or use. "Indeed, possession is interrupted even by a single act of a different nature," as taught by the Rota in decision 200, number 21, page 13, and confirmed in decisions 310, number 37, part 11; 65, number 14, page 15; 327, number 27, page 17; and 213, number 13, page 19, volume 1. Regarding the parish priest of St. Alexander, the advocate reports that he has always had jurisdiction over the buildings commonly called "the military sheds," erected above the ancient perimeter of the walls, and that this is confirmed by the testimony of the parish priest himself. Therefore, he concludes, the possession of a single small building cannot establish prescription with regard to the territory of the demolished fortifications, according to the well-known principle "prescription only extends as far as the possession," as stated by De Angelis, part 2, page 211.

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Furthermore, he states that it is well known that parochial boundaries are not subject to prescription, even after a long period of time, as, among other things, is demonstrated.

[*Latin ed. p. 107*]

ALEXANDRINA 107. *Rejífenstuel, Ius Can. I, title XXVI, n. 40, and Schmalggrueber, Ius eccl. par. III, title XXIX, 55, 3, n. 22 et 23.* CONCERNING THE DEFENSE OF PARISHES. IOANNIS. E X, on the contrary, the parish priest of St. John argued that the Chapter and the parish priest of the Cathedral, as well as the prebendary of St. Alexander, had no right to intervene in the present judgment, and therefore should be removed from it. Recalling the notion of judgment as found in sections 8 and 13 of the Code of Canon Law, as well as in the Decisions of the Rotunda, 476, n. 8, and 552, n. 4, volume 2, and in the writings of Molines, he maintained that only those who have the right to pursue a claim in a judgment have a right to do so, and that they must clearly prove the basis of their claim. However, he believes that no right exists for appealing to the judgment of the Cathedral Chapter, firstly because, since the year 1824, unanimous consent has been given for the erection of a new parish, and secondly because no right has been usurped, nor has any damage been caused. In truth, when Bishop D'Angennes established the suburban parish of St. John, he assigned territory to it that was formerly part of the parish of St. Lawrence, and thus did not diminish the jurisdiction of the Cathedral or of St. Alexander in any way. Furthermore, if one examines the decree of the Bishop of Casale Monferrato, Villaret, issued in 1807, he believes that a new argument can be derived from it to demonstrate the lack of a right. For, there, the jurisdiction of the Cathedral and St. Alexander parishes is limited to certain regions of the city, which are designated by civic numbers, and therefore cannot extend beyond those regions. The patron, moreover, asserts that this is more clearly demonstrated by a graphic description of the disputed territory, which the Most Reverend Prelates promise to present in order to inform themselves. He further argues that nothing is being done that would suggest that an exception, whereby two parishes are requested to be removed from the judgment, was not proposed at the initial stage of the jurisdiction. For, he says, the parish priest of St. John only became aware of the decree of Bishop Villaret and the aforementioned graphic description of the city after the court's judgment, and therefore could not have objected to them, as they were unknown to him. Furthermore, the advocate asserts that...

[*Latin ed. p. 108*]

108 In ALEXANDRINA, exceptions to the established rules can be raised in any judicial proceeding where the defendant is summoned, and the peremptory right of the parish of St. John was not absolute.

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Then, addressing the matter more closely, the speaker argues that the confirmation of the judgment by the Sacred Congregation deserves consideration. He states that it resolves two important questions: first, it definitively declares and determines that the rural territory formerly belonging to the parish of St. Lawrence now belongs to the parish of St. John; and second, it affirms that the aforementioned parish of St. John has the right to continue and exercise its jurisdiction over the area already occupied by the nearest town, where "the gate to Genoa or Savona" was located, but provisionally, and subject to the possibility of revoking the judgment, should the claimants, or one of them, demonstrate superior rights. He observes that this judgment was issued after scrupulous adherence to all legal prescriptions, and that before it was promulgated, all matters that could have shed light on the complex controversy were carefully considered and accurately described. However, the speaker continues, not only is the judgment complete in every respect, but it is also sound for intrinsic reasons; it is closely connected to the decree of Bishop D'Angennes of February 12, 1825, from which he recalls the following:

1. The new parish was established solely because of the district located outside the city walls and belonging to the parish of St. Lawrence, since the inhabitants of that district lacked spiritual assistance due to the distance and the difficult road, especially at night when the city gates were often closed.

2. All formalities were completed in its establishment, with the process being initiated, the aforementioned parish priest of St. Lawrence being summoned, and with the consent of the Chapter.

3. It is clear from the decree that the district or territory outside the gate of Ianuensem, which formerly belonged to the church of St. Lawrence, was assigned and granted to the new parish of St. John the Evangelist.

4. Finally, a church of the confraternity near the gate of Ianuensem, under the title of the Most Holy Cross, was established as a parish church, until another was established.

[*Latin ed. p. 109*]

ALEXANDRINA 109 Furthermore, it is noted that the opinion under discussion declared nothing other than that it pertains "in an absolute and undeniable manner" to the parish of St. John, the entire rural territory which formerly belonged to the parish of St. Lawrence. Moreover, it is observed that, by virtue of the decree of dismemberment and the erection of the new parish, the pastor of St. John was substituted for the pastor of St. Lawrence. Furthermore, it is stated that it is evident that the substituted pastor succeeds to all the rights, privileges, and prerogatives of the substituted, as is read in the Oritana of Parochial Rights of September 22, 1877, § Concerning the Use of the Altar. Therefore, the speaker states, since the territory existing outside the gate of Ianuensem formerly belonged to the jurisdiction of

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the pastor of St. Lawrence, that jurisdiction has now passed to the substituted pastor of St. John. But what is more, it is believed that the observance of sixty years and more, entirely favorable to the pastor of St. John, is also relevant. How much authority this claim truly holds, it is not necessary for us to say, since this principle is established in law. See Rota Dec. 162 n. 2 part. 10 inter recent. Lotterius De re benef. lib. 2 quaest. 11 num. 123 and De Luca De iurepat., dis. 60 n. 9. It is, however, recalled that this principle is more applicable if, as in the present case, it is closely related and contemporaneous with the law in question, according to Pitonium Discept. eccl. disc. 159, n. 44 and S. Congr. Concilii in Ceriniolen Interpretationis of April 1, 1876, § Orta. Indeed, in this case, the long-standing observance is closely related and contemporaneous with the decree of erection, and this can be gathered from the very opinion itself. To these considerations, if we add that in 1857, the same controversy was abandoned by the pastor of St. Lawrence after reasons were presented by the pastor of St. John, the matter appears to be settled for the speaker. From this observance, which, it is believed, also receives confirmation from newly presented evidence, arises the concept of prescription. Furthermore, it is stated that if possession for forty years, with a title, as stated in chapter I of De praescr., induces prescription, then this principle is even more applicable in the present case. It is not valid to object that the boundaries of parishes are imprescriptible; for here, on both sides, we are dealing with a parish, which enjoys the same right, and the question to be resolved is according to the common law.

[*Latin ed. p. 110*]

110 In ALEXANDRINA, in order to eliminate a prescription, the opposing party should demonstrate that the prescription was interrupted, or, if that is not possible, that the possession has been lacking for less than ten years, which is declared to be impossible. Furthermore, it continues that, if, according to the authorities, boundaries are proven by the exercise of jurisdiction, as can be seen in Mascardus, *De prob.*, canon. 403, n. 2; if boundaries are proven by letters from the Bishop or another ordinary judge, in the aforementioned location, n. 14; then, *a fortiori*, in the case of a judgment by an Ordinary, who has judicially inquired into the peaceful possession of the parochial jurisdiction of St. John for sixty years and more, admitted and recognized by the opposing party, this should be the case. After these observations, it notes that, in the judgment of the Alexandrian Court, the following words are found: the parish priest of St. John must persevere in the exercise of jurisdiction over the disputed territory, "until the plaintiffs or one of them has legally and certainly demonstrated their prior right, etc." Furthermore, it states that, with these words, the issue has not been definitively resolved, but rather the judge remains in the same dispute, until he completely defines and terminates it with a final judgment, as is derived from Law 14 of the titles on *res judicata*. However, it follows

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that from a judgment that is not final, an appeal is not granted except in the cases prescribed by the Council of Trent, Session 24, *De reform.*, chapter 20. There, "Neither shall appeals be received from these [Ordinaries] interposed by any superiors, unless from a final judgment, or from one having the force of a final judgment, and whose grievance cannot be remedied by appeal from the final judgment." Therefore, the renowned Ferraris teaches in his *Bibliotheca canonica* that an appeal can be made in judgment in four cases: namely, first, from a final judgment; second, from a judgment having the force of a final judgment; third, from an interlocutory judgment, or from some other grievance, when such a grievance cannot be remedied by a final judgment; fourth, from an interlocutory judgment, whenever an appeal from a final judgment is not possible. *Verb. Appel*, art. IV, n. 26 and following. However, it believes that none of these cases applies in the matter at hand. The advocate writes: "This is not a case of a final judgment."

[*Latin ed. p. 111*]

ALEXANDRINA 111, definitively, because the judge reserved for himself the right to examine the same case again and to issue a decision regarding the superior rights of the opposing party; therefore, it is not a matter of a sentence having the force of finality. Furthermore, it is not a matter of irreparable harm, provided that there is room for reparation if it is established that superior rights exist through a final sentence. Therefore, it is concluded that, in all circumstances, there is no basis for an appeal against the decision of the other party. To further strengthen what has already been asserted regarding the observance of the patron, he cites certain testimonies that appear to be faithfully reported by the Most Reverend Fathers. In the first place, the sacristan of St. John affirms that he has always fulfilled the rights and duties of his ministry over the territory of the ancient fortifications; and that this has been the case from his predecessors, who have passed away at an advanced age. Others, equally advanced in years, testify the same. In addition to these, there are the parochial records of the church of St. John, from which it is gathered that the marriages of those who inhabited the disputed territory were blessed by the pastors of that church, who likewise performed the last rites for the deceased in the places of Caprasse, Spalte, Buhaglia, and "above the ancient fortifications." All of these things, he notes, appeared of such weight to the Bishop that the Sacred Congregation did not hesitate to write regarding the reasons presented by the aforementioned pastor: they appeared weighty to me, and therefore I cannot but adhere to them. Finally, he refers to the response of the Sacred Congregation in the Gratianopolitan case of March 21, 1892, (1) in which, likewise, the territory of the demolished fortifications was the subject of a dispute between the urban and suburban parishes, and in which the decision was made in favor of the suburban pastor because the embankments, fortifications, and other military works were not consid-

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ered to be part of the fortifications. With these points raised, the purpose was to dispel the doubt as to whether the sentence of the Curia should be overturned in this case. (1) *Ecclesia Vol. XXV, 149. Alexandrinae sit confirmanda vel*

[*Latin ed. p. 112*]

112 ALEXANDRIA. Concerning a matter debated by the Sacred Congregation on March 1, 1893, it was decided to respond: The judgment is to be confirmed. RESOLUTION. NANTES AND CAP-HAÏTIEN. QUESTIONS. On July 1, 1803, Session 23, chapter 8, concerning reforms. SUMMARY OF THE CASE. In the month of July of the year 1890, the Bishop of Cap-Haïtien, together with the apostolic administrator of Port-de-Paix, presented the following to the Sacred Congregation: "The major seminary of the Haitian province is located in the Diocese of Nantes. All the seminarians are subject to one of the bishops of the Haitian jurisdiction. Ordinations in the church of the seminary have been performed both by one bishop and by another, by the name of the bishops of Haiti, and sometimes by one of the Haitian bishops, with the prior permission of the Bishop of Nantes, once granted, and with letters of dismissal given to the bishop performing the ordination, but not to the Bishop of Nantes. Furthermore, the certificates of ordination have been signed by the same bishop performing the ordination, without any mention of the delegation of the Bishop of Nantes." And having related these facts, they inquired: "1. Whether such a mode of acting can be maintained. 2. Whether the Bishop of Nantes alone can perform ordinations in the aforementioned seminary, either by himself or through another, provided that he is given letters of dismissal from the ordinaries for the ordinations. 3. Whose name should be affixed to the certificates of ordination. 4. Whose name should be read aloud during the interdict before the ordination." The requests, as is customary, were immediately sent to the Bishop of Nantes, who, in the following month of September, informed the Sacred Congregation as follows: "After carefully considering this matter, I see that these students are neither, for the most part, under the jurisdiction of the Bishop of Nantes, by reason of their origin, nor by reason of their destination, nor by reason of the professors they use."

[*Latin ed. p. 113*]

NANTES. AND CAP-HAÏTIEN. After 113 [documents] from Noto, it was deemed best to respond that the Bishops of the Haitian province should retain the use of these [documents] concerning ordinations and certificates of ordination, as if they were their own, entirely omitting any delegation from the Bishop of Nantes. Upon receiving these letters, and since the matter appeared somewhat obscure, a response was sent to both Bishops, requesting that they provide a more precise account of whose jurisdiction and oversight the aforementioned students and seminary

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were under, and also that they transmit, if any, provisions in the rules or founding documents that pertained to the ordination of the students or the seminary's dependence. And then, the Bishop of Cap-Haïtien presented this detailed information to the Sacred Congregation, which is as follows: although written in the vernacular language, I deem it worthwhile to transcribe it verbatim here.

1. "The Seminary of the province of Haiti is established at Calvaire de Pont-château, in the diocese of Nantes, in a house belonging to the Company of Mary. It was founded in 1872 by Most Reverend Alexis Guilloux, Archbishop of Port-au-Prince, with the approval of Most Reverend Fournier, Bishop of Nantes, and entrusted to the direction of the Reverend Fathers of the Company of Mary, in accordance with an agreement concluded between the Archbishop of Port-au-Prince and the Superior General of the aforementioned Congregation. A rescript from the Holy See authorized the Company of Mary to manage the direction of the Seminary of Haiti."

2. "The Seminary of Pontchâteau is entirely under the jurisdiction and oversight of the Bishops of Haiti, and it is to them that the Superior of the house renders accounts at fixed times concerning the spiritual and temporal administration of the institution. The Superior General of the Company of Mary has letters of vicariate general from the Bishops of Haiti, in order to, in their name, provide for the needs of the seminary, especially for ordinations, certificates, letters of recommendation, and other documents to be given to young priests, etc."

3. "Ordinations most often take place in the chapel of the Seminary. They are performed by a Bishop *in situ*."

[*Latin ed. p. 114*]

114 NANETENSIS. AND CAP-HAÏTIEN. Concerning the matter of ordinations, the Bishops of Haiti possess the faculty of ordaining their subjects outside of the usual times, either by themselves or through another Bishop. The Most Reverend Bishop of Nantes, who shows the greatest benevolence towards the institution, has deigned to personally perform ordinations at the seminary on several occasions, at the request of the Superior. It is to him, moreover, that one requests the necessary authorization for pontifical functions when they are performed by another Bishop.

4. "The students of the seminary are ordained in the name of the Bishop of Haiti, in the diocese to which they are incorporated after having been removed from their diocese of origin, and in virtue of the permissions granted to these same Bishops for ordinations outside of the usual times, and for dispensations from the requirements for ordination, etc. Therefore, the ordinations are performed in the name of the Bishops of Haiti by a Bishop acting in their place, in an institution which is entirely under their authority, with regard to its administration, and with the required

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permission of the diocesan Bishop of the place for pontifical functions."

The same Bishop of Nantes responded earlier, adding: "No rules or regulations prescribe anything concerning the ordination of the students. The students themselves are subject to one of the Bishops of the Haitian province, not by reason of their origin (since they are gathered from various dioceses of France), but by virtue of the letters of excorporation received from the Bishop of their origin. The seminary, indeed, by reason of its location, belongs to the diocese of Nantes, and there the Bishop of Nantes possesses ordinary jurisdiction. However, once his permission has been granted, the Bishops of Haiti or their delegates perform pontifical functions, celebrate ordinations, and perform other such duties without restriction."

Disputatio Synoptica: In the first place, the unusual practice could be observed to be in harmony with the disposition of the Council of Trent, in Chapter 8, session 23, concerning reforms, which states that *PRACTICE SHOULD BE PRESERVED*.

[*Latin ed. p. 115*]

NANTES. AND CAP-HAÏTIEN. 115 "Each one shall be ordained by his own Bishop." For it is known that this faculty of ordaining one's own subjects can be exercised by Bishops, either by themselves, or by granting dismissal letters. These dismissal letters, as the law openly states, "can be sent to any prelate who has the grace and communion with the Apostolic See." Therefore, it would seem that the Bishops of Haiti cannot be blamed, who, because of the distance of the place, are unable to confer the sacred orders themselves upon those of their subjects who reside in France, and therefore send them to other prelates who are well-disposed. Nor, perhaps, could it be objected that other Bishops, to whom dismissal letters are addressed, cannot have pontifical jurisdiction, and therefore cannot perform ordinations within the limits of the diocese of Nantes, according to Canon 5, session 6, concerning reforms. For from what has been stated, it is clear that the Prelate of Nantes has granted the Bishops of Haiti the most ample concession, and that the Holy See has responded to the question raised in this matter: "It is better that the Bishops of the Haitian province retain the use of these matters concerning ordinations as if they were their own, without any delegation from the Bishop of Nantes." Furthermore, although there is no express mention of the exemption of the seminary located in the place called Pont-château, nevertheless, at least in some sense, it would seem that this exemption cannot be entirely denied. Indeed, the Prelate of Nantes himself stated that the students of the aforementioned seminary "are not, either by reason of their origin, as is the case with many, or by reason of their destination, or by reason of the teachers they use, subject to the jurisdiction of the Bishop of Nantes." Moreover, from the letters of the Bishop of Port-de-Paix, it is gathered that a superior general of the

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Congregation of Mary, belonging to the province of Haitian Bishops, exercises a general function in France, and has truly been constituted as their vicargeneral, "especially for ordinations, testimonial and dismissal letters, and for those to be given to young priests, etc." These matters, indeed, while on the one hand they seem to indicate some privilege granted by the Holy See, on the other hand, they clearly indicate that the aforementioned seminary is, at least in fact, endowed with some exemption. And if the practice hitherto in force is for the students of the seminary...

[*Latin ed. p. 116*]

116. NANTES. AND CAP-HAÏTIEN. The Haitians, in the transmission of dismissal letters and in the granting of orders, should also, it would seem, adhere to the same principle regarding the subscription of letters which attest to the completed ordination. Indeed, if it is established that these letters are to be issued by the Bishop who conferred the sacrament of Holy Orders, it can be demanded that mention be made in these documents of the permission granted by the Bishop of Nantes to exercise pontifical functions. THIS PRACTICE SHOULD BE REJECTED. Nevertheless, it must be considered that the faculty to confer orders does not belong to any prelate everywhere, but can only be exercised within his own diocese. Indeed, in this case, we are not merely dealing with the exercise of the power of Holy Orders, but with the exercise of jurisdiction, which cannot be admitted outside the territory. Monsignor de Camillus, in *Institutiones Iuris Canonici*, vol. 2, page 105, edition of Paris, 1868, states that bishops can ordain a cleric from another diocese with the dismissal letters of his ordinary, but adds: "but the bishop who receives these [dismissal letters] must take care to confer the orders where he is granted the use of pontifical functions." And Clar. Devoti, in *Institutiones Canonicae*, book 1, title 4, section 2, § //, writes: "The power to confer orders everywhere belongs to the Roman Pontiff; the bishop exercises it in his own diocese." Furthermore, the fact that the Bishop of Nantes granted the faculty to exercise pontifical functions in the Haitian seminary to other bishops does not imply the power to perform ordinations as if in his own territory. Therefore, other prelates, including the Haitians, whenever they confer Holy Orders there, act in the name of the Bishop of Nantes, and it seems that he also has the right to judge the requirements for ordination, and to regulate everything that precedes the ordination. Moreover, the practice in Rome and almost everywhere is that whenever a prelate confers orders in another diocese, he does so not only with permission, but in the place and name of the diocesan bishop. It would be quite absurd to appeal to the exemption of the seminary on this matter, which, since it is an odious thing, namely, a violation of the certain right of the Bishop of Nantes, should not be proven by such arguments. "The

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seminary, by reason of its location, is..."

[*Latin ed. p. 117*]

NANTES. AND CAP-HAÏTIEN. "The diocese of Nantes pertains to Nantes, and the Bishop of Nantes possesses ordinary jurisdiction therein," writes the same prelate of Nantes to the Sacred Congregation, and therefore, no privilege can be admitted which would derogate from ordinary jurisdiction. With these things established, the controversy concerning the signing of testimonial letters appears to be definitively settled. Indeed, since the Bishop of Nantes can perform the sacred ordinations, either personally or through another, within his territory, it follows that only he is competent to issue the testimonials of the ordination received. Finally, concerning the last point of the question, namely, whose name should be read during the interdict before the ordination, since from chapter 2, paragraphs 1 and 2 of "De Officiis Proconsulis Extra Territorium," it is clear that no one is granted the power to exercise contentious jurisdiction outside of his territory, so as not to cause injury to the ordinary judge of that place, it should be read in the name of the Bishop of Nantes. It is not valid that clerics are subject to the Bishop who ordains, for the one who is to bear the censure must be within his own territory; for if he exists outside of it, even if he is subject to another, he cannot impose a censure. Thus, the Abbot in chapter 7, paragraph 3 of "De Officiis Legis," Schmalzgr., Part IV, volume 39, number 24, etc. Having briefly considered these questions, the following doubts were proposed: I. Can the practice hitherto observed in the ordination of clerics of the Haitian Seminary within the limits of the diocese of Nantes be maintained in this case? And to this, a negative answer. II. Is it only the Bishop of Nantes who should perform the ordinations in the aforementioned Seminary, receive the dismissal letters of the students, read the interdict before the ordination, and subscribe to the testimonials of the ordinations in this case?

RESOLUTION. After discussion by the Sacred Congregation on July 13, 1893, it was decided to respond: Regarding I. Consult with the Most Reverend for confirmation of the practice, but so that those to be ordained are ordained to another...

[*Latin ed. p. 118*]

118. NANETES. And the Bishop of CAP-HAÏTIEN should not be dismissed, whenever the Bishop of Nantes has ordinations. Regarding II. The provision in the first (1). •From the aforementioned: I. It is given to each Bishop, by right, not anywhere, but only within the limits of his own Diocese, the power of jurisdiction and the faculty of promoting to the sacred orders his own subjects, and others who are endowed with letters of dismissal by his own Ordinary. II. Concerning this matter, the custom which limited this double power of the Ordinaries should have been entirely re-

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jected, since it harmed the rights of the Bishops. III. Therefore, it was necessary to seek an Apostolic approval, so that this unusual practice could be maintained, and made legitimate. ALBENGAN. Regarding the COMMUTATION OF WILL, July 15, 1893. Through summary prayers. A SUMMARY OF THE MATTER. The Bishop of Albenga humbly explained to the Most Holy Father, whom God may preserve for a long time, as early as March of this year: that the administration of the Cathedral, which is under the care of a Rector, is greatly lacking funds for restoration, after the damage caused by an earthquake; that the Seminary also suffers from this lack; so that it is necessary to dismiss some young men of the best hope, who are fed free of charge, due to their poverty; that there is a fund of 14,000 livres with the Curia, the income of which is used for Masses, which do not burden the locality, provided they are celebrated within the year; that this sum was perhaps obtained through the relics of ancient legates of Masses, or through assignments of pious souls for private and free Masses; therefore, he requested the faculty of expending the aforementioned sum to support the Cathedral and (1) See Recole Vol. XIV, 392, and 398; where an appendix is related concerning testimonial and dismissal letters, etc.

[*Latin ed. p. 119*]

A L B I N G A N E N*. 119 The seminaries are experiencing a shortage of funds, a matter determined by the Ordinary and necessary for the well-being of these institutions, even to the point of causing distress. Regarding such requests, a response was issued on April 8, 1893, stating: "Considering, etc., in order to grant, for a period of five years, the favor of remitting, solely, the aforementioned sums, imposing on those who subsequently hold the benefice, the obligation of reciting pious prayers for the benefactors, and of celebrating a certain number of Masses for them after they have been promoted to the priesthood, according to the prudent judgment of the Bishop, etc." Very recently, the same Bishop reiterated his request, compelled by the scarcity of resources, and requested that a greater indulgence be granted to him, so that he might assist the seminary and remit a portion of the debt burdening the Cathedral, in order to prevent further disgrace and damage.

SYNOPTIC DISCUSSION:

The request for the commutation of wills and, especially, the reduction of Masses, is clearly disapproved by the sacred canons, as it is inherently objectionable and undermines pious dispositions.

Canon: The last will, cause 13, question 2, I, 2 of the Code of Canon Law concerning sacred matters, Clementine. Concerning religious houses, Council of Trent, session 22, chapter 6 on Reform. Reiffenstuel III, 26, n. 804.

Furthermore, this Sacred Congregation has always been very diligent in

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adhering to the decrees of the Council of Trent, insisting that the sacrifices of Masses for the expiation of souls be strictly observed, and that the pious dispositions be maintained sacredly and religiously, and that they not be altered, even for a better purpose, where they can be conveniently fulfilled, as can be seen in the Florentine document concerning the reduction of burdens, August 26, 1820; in the Tolentino document concerning the commutation of wills, April 22, 1826, and in several others.

Moreover, in this matter, the Bishop requests not only the remission of revenue, but also the remission of the principal sum, which has rarely been granted by the Sacred Congregation, and only under exceptional circumstances.

[*Latin ed. p. 120*]

120. ALBINGANEX. [The matter is] considered with the gravest deliberation and for reasons of necessity or utility, which in this case do not seem to exist. Indeed, the Seminary, by virtue of its endowment, could not derive any further benefit, and it is stipulated by law that the repair of the cathedral church must be carried out from the revenues of the church itself, if it has any; otherwise, the Bishop, the canons obligated to provide for it, after deducting what is necessary for their sustenance, as well as all those who participate in the fruits of the church, and finally, the entire clergy and the people, are bound. Reiffenstuel, *lib. III*, title 48, number 28; Pirhing, III, 48, number 19; Sperellius, in *Decisione*, 68, number 20.

PETITION TO BE GRANTED. Nevertheless, it must be considered that the Sacred Congregation, in chapter 6 of session 22 of the Council of Trent, has repeatedly affirmed that the wills of testators have been altered, whenever a just and necessary cause has arisen; and that the celebration of Masses and other obligations have been suspended, so that the needs of the building might be met, as can be seen in Senogall. *Fabricae eccl.*, February 20, 1726, question 2; in Ferentino, *Reaedifient. eccl.*, May 25, 1805; and in Tivoli, *Suspens. capell.*, January 13, 1816. That a just and necessary cause for granting an indulgence exists here, after what the Bishop has stated, seems not to be open to doubt. However, if the Most Reverend Fathers should judge that the Bishop's prayers should be approved, and that the alteration of pious wills should be decreed, it will not be irrelevant to consider how a condition might be added, namely, that a certain number of Masses be celebrated each year, so that both the benefit of the cathedral might be considered, and the rights of the pious testators, as far as possible, might be observed.

With the foregoing in mind, the question was raised as to how the prayers should be granted.

RESOLUTION. The Sacred Congregation, after deliberation on July 15,

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1893, decided to respond: As proposed, negatively.

[*Latin ed. p. 121*]

121. DISPENSATION FOR THE MINOR ORDER OF ST. FRANCIS. July 15, 1893. Granted due to irregularity, by summary petition.

COMPENDIUM OF THE CASE. Father Alphonsus, of the Order of the Minor Friars of St. Francis, from Serino, having received a letter dated May 4th of this year, humbly implored the benevolence of the Supreme Pontiff, and stated the following: He had previously required an apostolic dispensation due to the amputation of the middle and index fingers of his left hand; now, having suffered the amputation of the thumb of the same left hand, he requests a new dispensation, so that he may be able to celebrate Mass.

DISCUSSION. There is no doubt of the existence of the irregularity, as is clear from chapter 12, "De corpore vitiatis," chapter 2, "De clerico aegrotante," and from numerous decisions of the Sacred Congregation of the Council. However, since we are dealing with a case already promoted [to the priesthood], and considering that the Sacred Congregation is accustomed to show greater leniency in similar cases, so that those who are already priests may not, due to a subsequent misfortune, be forced to abstain perpetually from celebrating the holy sacrifice of the Mass, and thus endure a greater affliction in their state than those who, due to a similar misfortune, are prevented from being promoted to the sacred orders, such petitions do not seem entirely unworthy of consideration.

If examples of dispensations granted to priests are to be cited, many others can be presented, including some even more serious, such as that from Mutina, dated May 24, 1734, in which the Sacred Congregation showed benevolence towards a priest who had lost three fingers: the thumb, the index, and the middle finger, and that from Cerenzia, dated April 20, 1788, in which, due to the poverty of the petitioner, a favorable response was given to Father Caietan Falbo, who had lost all the fingers of his left hand.

To speak now of the reason required in such dispensations, it seems to be present in the benefit of the Church. Provided that the Vice-Procurator General of the aforementioned Order of St. Francis...

[*Latin ed. p. 122*]

The Order of the Minor Friars of Saint Francis writes concerning the prayers offered: "Indeed, I commend the prayers of the petitioner." However much this should be done, esteemed Fathers, it will be for your wisdom to determine, especially since the petitioner belongs to an order in which there are many priests. After these matters were explained, the question was raised as to what response should be given to the prayers. RESOLUTION. The Sacred Congregation of Councils, after deliberation on July 15, 1893, decided to respond: "For the sake of clarity, a preliminary ex-

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periment should be conducted before the Master of Ceremonies of the respective Cathedral Church." FROM THE CONGREGATION OF BISHOPS AND REGULAR CANONS OF FIRMANA, also known as AVERSANA, regarding pensions, on March 10, 1893. At the request of the pensioners Ferrari and Ferraio, for the third time, against the Bishop of Aversana, the pensions imposed by the Apostolic See upon his table after the year 1860 are being delayed, both due to the increased taxes and due to other pensions arbitrarily imposed by the Dictatorial and Lieutenant Government: the formula for doubt is: Whether and in what amount, and at what time, the Bishop of Aversana is obligated to pay the pensions in this case. The Congregation of Bishops and Regular Canons, on March 5, 1875, issued the following authoritative response: "Maintaining the validity of the decree of August 28, 1874, namely that, in the meantime, the payment of one-quarter of the increased pensions should not be delayed, it is appropriate now to pay one-third of the current pension installments, starting from this year inclusive, and the matter should be presented again at the request of the parties, or if the situation of the revenues of the Episcopal See remains unchanged." SUMMARY OF THE MATTER.

[*Latin ed. p. 123*]

FIRMO or AVERSA, March 17, 1891. In addition to the aforementioned resolution, the pension of Canon Gioventù of the diocese of Fermo was also considered. This pension, which burdened the Aversa fund by 212.50 livres, was reduced to 70.80 livres. However, when Canon Gioventù discovered that the income of the Aversa fund had increased since 1875, he petitioned the aforementioned Sacred Congregation on March 17, 1891, requesting that the question be resolved as to whether, and from what time, there was grounds for restoring the full pension to the petitioner. Since the payment of the reduced pension had been suspended since 1885, he also requested that the matter be considered regarding this point as well; hence, the discussion of the doubts presented below.

Synopsis of the Arguments.

Canon Gioventù maintains that his prayers regarding the reinstatement of the full pension should be received favorably, because this is entirely in accordance with a recent decision of the Sacred Congregation of March 5, 1875, which grants pensioners the right to re-present their case if the financial situation of the fund changes.

Indeed, Canon Gioventù states that the financial situation of the fund has improved, not only because 8 or 9 pensioners have died since 1875, including the Most Reverend Cardinal de Luca, who received an annual pension of 3451 livres from the aforementioned fund, but also because, moreover, the Bishop of Aversa himself admits this in his letter of July 16th, stating: "The fund is burdened with other pensions, and in addition, it is one of the richest." He further adds: "My fund is now among the most

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prosperous."

The Bishop's assertion that, although the income of the fund has increased, other expenses have also increased, such as expenses for the Seminary, expanded public welfare initiatives, and the dissemination of good books, should not be given undue weight. Canon Gioventù argues that these activities, while commendable, should not take precedence over the strict obligation of justice.

It cannot be presumed that the Supreme Pontiff, especially in promoting the dissemination of good books, would intend to do so with prejudice to the satisfaction due to Canon Gioventù.

[*Latin ed. p. 124*]

124 FIRMANA or AVERSANA: The sum imposed by the Apostolic See itself is not to be questioned; indeed, if it were desired, it could not be, for the rule stands: "Concerning rights of third parties, nothing is to be taken away." Therefore, from what has been discussed thus far, the canon Gioventù concludes that his pension should be restored to its previous amount, and this from the year 1875, since from that time the Episcopal fund began to be relieved of the burden of pensions; otherwise, it is more urgent that its restoration begin from the month of December of the year 1883, provided that this epoch marked the final day for Emus Cardinal de Luca, one of the principal pensioners. However, concerning the second point of the matter, namely, the repayment of the pension installments that, following the aforementioned resolution from the year 1885 until now, have been due and unpaid, the canon Gioventù strongly contends that this is most in accordance with equity: provided that, "a conceded benefit must remain, Reg. XVI de Reg. Iuris in 6," and "no one ought to enrich himself at the expense of another, Reg. XLVIII de Reg. Iuris in 6," which is consistent with / 206 ff. de Reg. Iur.

DEDUCTIONS OF THE BISHOP OF AVERSA.

On the contrary, the Bishop vehemently opposes the restoration of the pension to its full amount, maintaining that it must remain at the rate established by the Holy Congregation in the year 1875, namely, in one-third, or in the amount of 70.84 lires. Indeed, he adds, although some pensions have ceased, no benefit has been brought to the Episcopal fund, for other burdens have arisen, such as the increase in the tax quota of the contributions, which now amounts to more than 18,000 lires, expenses for the Seminary, and other similar items, which, when considered together, form an annual sum of 24,844.18 lires; hence, the revenues of the fund should rather be said to have diminished than increased.

However, granted and not conceded that the revenues of the fund have decreased, the restoration of the pension should begin from the date of

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the commencement of the dispute. The opposing party, the canon, cannot ignore, the Prelate continues, the clear words of the Rescript of the Holy Congregation dated March 5, 1875, in which, after granting the pension re-

[*Latin ed. p. 125*]

FIRMANA OR AVERSA 125. It was prescribed that, unless requested by the parties involved, a new legal action would not be instituted to restore the income to the full pension; rather, the cause would be "reopened" at the request of the parties or of one party, with the state of the income remaining unchanged, concerning the Episcopal table. Otherwise, it would be unjust to compel the current Bishop to pay a portion of the pension to which his predecessor was bound. Furthermore, concerning the pension installments already due and unpaid, the Prelate stated that this had occurred due to the fault of the aforementioned canon, Gioventù, who never presented the document granting him the title, and who would have been ready to pay if he had properly requested it. Moreover, nothing whatsoever concerning the aforementioned grant exists in the Episcopal Archive, and Canon Gioventù only claimed payment in the year 1891, which, however, should not have begun from the year 1885, as the aforementioned canon contended, but rather from the year 1886, or from the 30th of August, on which day the current Bishop took possession of the Episcopal See of Aversa. Having clarified these points for both sides, the following questions are to be considered: I. Can Canon Gioventù demand the full pension from the Bishop of Aversa? II. Can the same Canon demand payment of one-third of the pension from the same Bishop, concerning the period from the date of the Rescript of March 5, 1875, and from the year 1885, which remains unpaid?

RESOLUTION. The Sacred Congregation of Bishops and Regular Canons, after mature discussion at the General Meetings, issued the following decree: I. Affirmative, from the date of the sentence issued on March 10, 1893. II. Affirmative, from the date of the acquisition of possession.

[*Latin ed. p. 126*]

126 FROM THE DECREE OF THE HOLY CONGREGATION FOR INDULGENCES, by which a hundred days' indulgence is attached to the prayer for the conversion of the Jews. Most Blessed Father, the religious women of Our Lady of Sion in Smyrna, prostrate before Your Holy Feet, implore from Your Holiness some indulgence for all the faithful who recite the annexed prayer, intended to promote the conversion of the Jews: Prayer. O God, of goodness, mindful of our miseries, we beseech You, through the Immaculate Heart of Mary, and through the intercession of the Patriarchs and the Holy Apostles, to cast a compassionate glance upon the remnant of Israel, that they may arrive at the knowledge of our only Savior,

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Jesus Christ, and may partake of the precious graces of Redemption. O God, of goodness, Father of mercies, we beseech You through the Immaculate Heart of Mary, and through the intercession of the Patriarchs and the holy Apostles, to turn a compassionate gaze upon the descendants of Israel, that they may come to the knowledge of Jesus Christ, our only Savior, and may participate in the precious graces of Redemption. Lord, forgive them, for they know not what they do. Amen. Lord, forgive them, for they know not what they do. Amen. His Holiness Pope Leo XIII, in an audience held on July 15, 1893, before the undersigned Secretary of the Sacred Congregation for Indulgences and Sacred Relics, benignly granted to all the faithful of Christ, those who recite this prayer with at least heartfelt contrition and devotion, a hundred days' indulgence, applicable also to the deceased, to be obtained once a day, and this grant is valid forever without this brief document. Notwithstanding any contrary provisions. Given in Rome, from the Secretariat of the aforementioned Holy Congregation, on July 15, 1893. Fr. IGNATIUS Card. PERSICO, Prefect. L. S. Alexander, Archbishop of Nicopolis, Secretary.

[*Latin ed. p. 127*]

127 FROM SESSION 3. CONGREGATION FOR RITES. Decree concerning the Canonization of the Blessed Joachim Piccolomini, a lay member professed in the Order of the Servants of the B.V.M. CONCERNING THE DOUBT: Whether the Commission for the Introduction of the aforementioned Blessed Joachim Piccolomini should be signed, regarding the matter in question? In the case, and at the request of the Reverend Father Augustine Merini, a Priest professed in the Order of the Servants of the B.V.M., and Postulator of the cause for canonization of the aforementioned Blessed Joachim Piccolomini, when the Most Reverend Cardinal Lucidus Maria Parocchi, Bishop of Albano, Relator of the same cause for canonization, whose cult was solemnly approved by the late Pope Paul V through a Decree of April 14, 1609, proposed the following doubt in the meetings of the Congregation of Sacred Rites held today in the Vatican: Whether the Commission for the Introduction of the cause for canonization of the aforementioned Blessed Joachim Piccolomini should be signed, in the case, and regarding the matter in question? After the Reverend Fathers entrusted with the rites had carefully considered the matter, and after hearing the Reverend Father Augustine Caprara, S.J., the Promoter of the Faith, they judged it fitting to respond: Affirmative, that is, that the Commission should be signed, if it pleases the Most Holy [Father]. June 27, 1893. Having reported all of the above to me, the undersigned Secretary to the Most Holy Father Leo XIII, His Holiness, considering the judgment of the Sacred Congregation itself, deigned to sign the Commission for the Introduction of the cause for canonization of the aforementioned Blessed Joachim Piccolomini with his own hand.

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July 12, in the same year. * CARD. ALOISI-MASELLA, S.R.C., Prefect. * S. VINCENTIUS NUSSI, Secretary.

[*Latin ed. p. 128*]

128 CHINA. The Decree of Beatification, or declaration of martyrdom, of the Venerable Francis Clet, priest of the Congregation of the Mission of Saint Vincent de Paul, was issued. By Decree of February 1st of the preceding year, the Apostolic See granted permission, so that the doubt concerning the validity of the process, completed in the City [Rome], and concerning the cult of the aforementioned Venerable Servant of God, Francis Clet, could be discussed, and that the opinions of the Consultors of the Sacred Congregation of Rites, in a special meeting, could be heard. Therefore, at the request of the Reverend Father Natale Barbagli, priest, and General Postulator of the Causes of Beatification and Canonization of the Servants of God of the Congregation of the Mission of Saint Vincent de Paul, I, the undersigned Cardinal, Prefect of the Sacred Congregation of Rites, and Relator of the Cause, presented the aforementioned two doubts to the Most Eminent and Reverend Fathers, entrusted with safeguarding the sacred rites, who, after mature deliberation, and having heard the voice and the written opinion of the Reverend Father Augustine Caprara, Promoter of the Faith, judged it necessary to write: "Regarding the validity of the process: Regarding the doubt concerning the validity of the Apostolic process, constructed in the City, and of the annexed processes completed in the Christian mission in Sin-chim-veu and in the apostolic vicariate of Honan-en-si: Affirmative, regarding the Roman process; however, regarding the processes constructed in China, it is necessary to petition the Most Holy [See] for their validation, after correcting any defects. Regarding the obedience rendered to the Decree of Pope Urban VIII concerning the cult of the aforementioned Venerable Servant of God: It is established. July 22, 1893." Concerning these matters, I subsequently presented a report to the Most Holy Lord Pope Leo XIII, and His Holiness, having considered the aforementioned resolutions, confirmed them, validating the processes and correcting their defects. July 23, of the same month and year.

† CARD. ALOISI - MASELLAS.

R. C. Prefect.

L. * S.

For the Reverend Father Vincentius Ioannes Ponzi, Secretary Substitute. NUSSI.

[*Latin ed. p. 129*]

129 ENCYCLICAL LETTER of the Most Holy Pope Leo XIII to the Bishops of Hungary; in which he laments that, recently, certain laws have been

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enacted by the civil authorities which are no less harmful to the Catholic Church than those which had been enacted previously. The constant piety and obedience of the people of Hungary to this Apostolic See have always elicited the benevolent regard of the Roman Pontiffs; and We ourselves have never failed to demonstrate, with the greatest charity and concern, how much We desire this from your people. Indeed, We have made this clear in a particular way, when, seven years ago, the most blessed and memorable events in Hungary were celebrated. Taking advantage of this opportunity, We addressed a letter to you, Venerable Brothers, in which We recalled the ancient faith, virtues, and illustrious deeds of the Hungarians, and We also communicated to you certain counsels which seemed to pertain to the well-being and prosperity of that nation, especially in these difficult times for the Catholic religion. The same cause and the same purpose now impel Us to write to you again. Indeed, the recent events which have stirred the hearts of all men demand that We urge you, and your clergy, to strive for constancy of spirit, for harmony, and for zeal in instructing and guiding the people entrusted to your care. But other matters also are present with you, which give Us a new cause for concern: We understand that grave dangers threaten religion. Indeed, as these matters have become the principal object of Our thoughts and concerns, so also they demand the most vigorous effort from you, Venerable Brothers, and We are firmly convinced that they will fully meet Our expectations and counsel. In general, with regard to the duties of Catholics, and especially in the face of the insidious attacks of the enemies of Christianity, it is necessary that all seriously and diligently consider how important it is, in all times and in all circumstances, to preserve and protect religion in the state, and how essential it is to maintain perfect and stable harmony of minds. For the cause at stake is of the greatest importance, namely, the eternal salvation of men, and also the very things which must be preserved and maintained.

[*Latin ed. p. 130*]

430 ENCYCLICAL LETTER concerning those things which are sought in civil society, either for peace or for the true well-being of the people. — Thus, those most excellent men, worthy of the most grateful remembrance by all posterity, perceived, who, by the example of extraordinary fortitude, shone forth marvelously in every age, and who, as it were, stood as a wall for the house of God; who were ready to sacrifice not only their possessions, but even their very lives, for the sake of the religion and the Church. — In this regard, your Hungary also has domestic examples, and those are numerous and illustrious, having endured for a long course of years. Indeed, since the Catholic faith was received by King Stephen and his Apostle, it has remained faithfully and constantly; and in this, besides the singular benefit of God, the fruit of the firm purpose of this people must be recognized; for it did not understand late that it was concerned

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with religion, with the glory of its name, and with the very safety of its own people. It is truly wondrous how the generous and outstanding affection of these men preserved their virtues: by which, even in the most difficult times and in dangers not dissimilar to great magnitude, the constancy and greatness of the Hungarian spirit were opposed. These virtues, indeed, with their aid, repelled both the repeated incursions of the Tartars, and also the long and immense attacks of the Mahometans: they are worthy of those who, in this perilous struggle, were aided by external forces as well, by the highest princes, especially by the Roman Pontiffs; for it was not only the faith and the empire of Hungary that were being defended, but the very Catholic religion, and the salvation of the West. — In a similar manner, the storms of recent centuries, which have brought ruin to many nations, and although Hungary also felt their violence and suffered some damage, escaped the worst; and it will escape in the future, provided that it maintains its religion with honor, and that all may know what their daily duties are, and that they may diligently fulfill them. And now, as we come to those things which pertain to our purpose, we have observed with great sorrow that, as in other conquered lands, there are in Hungary laws "which are contrary to the rights of the Church, and which diminish its power, and which are harmful to the Catholic profession" (1), and that other things have been created, either by public authority or by private action, in recent years, which are not less detrimental to the Church itself and to the Catholic religion (1).

(1) Encyclical Letter to the Bishops of Hungary, dated August 22, 1886.

[*Latin ed. p. 131*]

ENCYCLICAL LETTER 131, pernicious: but those who are now in charge of the affairs of your land, must be greatly concerned, lest even more grievous harms befall the religion. Indeed, with regard to those particular matters which have been agitated among you in recent times, it is your duty, Venerable Brothers, diligently and harmoniously to strive that all priests, and likewise the laity, may clearly understand what is permitted to them and what they must avoid, lest they offend the divine and natural law by transgressing the prescribed norms. And since many of you have been appointed as guardians of souls, and have sought the judgment of the Apostolic See concerning these very matters, it is also your duty, Venerable Brothers, to diligently exhort those same sacred ministers, so that they may not deviate in any way from what the Apostolic See has either determined or prescribed: and it is clear that what is not permitted to priests, is certainly not permitted to laymen either.

Furthermore, in order to prevent the power of many evils, it is of the greatest importance that pastors of souls never cease to warn the people to abstain, as much as possible, from entering into marriages with those of foreign and non-Catholic origin. Let the faithful understand and take to

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heart that such marriages, which the Church has always detested, are most abhorrent, as We ourselves have decreed elsewhere (1), "because they afford opportunity for illicit association and for the communication of sacred things; they create danger for the religion; they are an obstacle to the free exercise of good institutions, and they impel souls to become accustomed to treating all religions with equal regard, under the pretext of truth and falsehood." But the damage to the religion in Hungary is even greater, as We have mentioned. Those who are enemies of the Catholic name do not conceal what they intend: namely, by all the most suitable means, to bring about the deterioration of the Church and the Catholic religion! They daily compel conditions that demand this. Therefore, Venerable Brothers, We urge you more vehemently than ever before, that you spare no effort, so that you may repel the danger that threatens your nation.

Above all, take care and ensure that all, strengthened and encouraged by your example and authority, embrace the cause of religion with courage and fervor. Indeed, it often happens, and it is not without reason, that...

(1) Letter, Encyclical, on Christian Marriage, year 1880.

[*Latin ed. p. 132*]

132. ENCYCLICAL LETTER: It is a matter of grave concern that, among some Catholics, at a time when constancy and the utmost virtue are most necessary for defending the rights of the Church, certain individuals, guided by a misguided prudence, either remain indifferent or, on the contrary, display excessive timidity and inaction. However, it is easily seen that such a course of action opens the way to very serious dangers, especially when it concerns those who possess authority or who can greatly influence public opinion. For, besides the fact that those who neglect their duty incur a heavy obligation, they also cause offense, and block the path to maintaining concord, so that all may feel the same and confirm their sentiments by their actions. Indeed, nothing is more pleasing to the enemies of the Catholic name than the apathy or discord among Catholics, for these things, as is well known, provide them with ample opportunity to act more boldly and with greater freedom in pursuing their evil designs. Therefore, it is necessary for all to exercise prudence and moderation in all matters; the Church itself desires that wise counsel be employed in defending the truth, but nothing should be done contrary to the laws of prudence, so as to risk the persecution of religion or the endangering of the salvation of the people. Moreover, as experience has shown, annual gatherings, in which the clergy of Cattolica, under the guidance and auspices of the Bishops, deliberate on matters concerning the increase of wickedness of every kind, possess a wonderfully effective and salutary power, and we earnestly desire that those things which we have previously provided for, in a timely manner, concerning this matter, be fully carried out. For we do not doubt that such gatherings, which

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we have also been instrumental in establishing in other places, will be of great benefit to you. Furthermore, you should diligently strive to ensure that men of proven religion and virtue are appointed to the legislative bodies, so that they may maintain a firm purpose, always ready and eager to defend the Church and the rights of Catholics. Moreover, Venerable Brothers, you see how those who are opposed to the Church are actively engaged, through newspapers and books, in spreading the poison of errors and perverted opinions among the people, corrupting good morals, and leading the multitude away from the practice of the Christian life.

[*Latin ed. p. 133*]

Let your people understand that it is fitting to attempt something greater of this kind, and that all efforts should be made to ensure that written works are produced that are worthy of the magnitude of the undertaking, and that provide suitable remedies for evils. Above all, Venerable Brothers, we wish to emphasize that your efforts are focused on the education of children and adolescents. We have already explained, as we mentioned at the beginning of these letters, that we cannot fail to address some matters of greater importance.

Therefore, Venerable Brothers, it is necessary to urge and encourage schools to ensure that teachers and other caregivers diligently and continuously fulfill their duties in instructing students in sacred doctrine. This noble and important task should not be entrusted to others, but should be undertaken by themselves, since the education of young people is essential not only for families, but also for the well-being of the entire public good. We do not doubt that no effort will be too great, and that the school of this kind will constantly increase in its daily progress.

It would be very beneficial if, in each Diocese, Inspectors of schools, both diocesan and deaneries, were established, with whom the Bishops could consult annually regarding the condition of the schools, and indeed regarding all matters pertaining to faith, discipline, and the care of souls. We are certain that, with your experience, Venerable Brothers, and with the prompt and generous liberality of Catholics of all orders, new schools will be established as needed, or existing ones expanded.

Furthermore, as the ancients said, we must carefully ensure that the good seeds of the liberal arts, instilled in the minds of children, are not tragically lost in adolescence. Therefore, Venerable Brothers, strive as much as you can, through teaching and exhortation, to remove or reduce this danger: above all, let your pastoral wisdom be such that you select worthy and virtuous men to give religious instruction, and that you remove the causes that so often impede the healthy and abundant fruit of their studies.

Moreover, although we are not aware of the specific methods you have

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adopted for these best of educational institutions,

[*Latin ed. p. 134*]

134. Let those encyclical letters, which ought to proceed from the mind of the Church and the authority of the Bishops, persevere; let those which have been established by them continue; but we earnestly urge that, with every opportunity offered, you strive to undertake this matter with common counsel, as it is your right and duty. For it is equally repugnant to equity and justice that what has been granted to Catholics by name should be denied to Catholics. Moreover, it is evident that those things which are wisely instituted are to be employed, not to the detriment of the Catholic faith and the Church, but for the protection and preservation of both, and thus for the perpetual good of the republic itself. Finally, our office requires us to commend to you, as we have already commended in those same letters, what is most important concerning the young clerics, and the presbyters among them.

Indeed, Venerable Brothers, it is most important that you devote much counsel and effort to the proper upbringing of all youth; and you must strive even more diligently for those who are growing up in the Church, so that they may be worthy of the priestly honor and be fitted by their virtues, in due season, to properly perform the duties of that office. In this matter, your vigilance is especially required in the sacred seminaries, that they may flourish with greater zeal and abound with all that is necessary; so that, under the guidance of chosen directors, the students may be diligently and excellently instructed in morals, in the virtues proper to their order, and in all learning, both divine and human.

As for the fruitful activity of your clergy, it is especially fitting for this time that your, Venerable Brothers, office shine forth with singular brilliance, whether in directing with concord, or in exhorting with zeal and charity, or in maintaining ecclesiastical discipline.

Conversely, it is necessary that those of the clergy to whom it pertains adhere with the utmost fidelity to the Bishops, that they receive their admonitions, counsel, and endeavors; and that, in the performance of their sacred duties, and in undertaking labors for the eternal salvation of men, they always strive to be prompt and zealous, guided by charity.

Moreover, they can contribute greatly in all matters by their example, especially by constantly exhibiting to the Christian people a living model of virtue and continence. Let them be careful not to devote themselves too much to civil or political affairs; and let them often...

[*Latin ed. p. 135*]

ENCYCLICAL LETTER 135: Let the Apostles Paul remind us: No soldier of God should involve himself in the affairs of the world: for to whom can a soldier be bound, if he is a servant of another? (1). Certainly, as

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Gregory the Great warned, neglecting exterior concerns in favor of interior devotion is not proper; especially when it comes to defending the faith or promoting the common good, for negligence in these matters is certainly a hindrance, and time, place, or circumstance may offer no remedy. However, prudence and vigilance are necessary, lest the weight of sacred duties be lessened, and lest those who seem to care more for earthly matters than for heavenly ones. The same Gregory the Great aptly said: "Secular affairs should sometimes be tolerated out of compassion, but never sought after; lest they burden the mind of the faithful and plunge them into the depths of earthly concerns, far from heavenly things." (2). We also wish to encourage you, to whom these matters pertain, to diligently and religiously guard and administer the finances of your churches; and if, in any way, these matters are not handled properly, then also you should take care to provide for them. Furthermore, we believe it is highly fitting that the care of those associations or confraternities which exist among the laity be entrusted to the clergy, so that they may flourish once again. For, omitting other things, such associations can certainly provide great benefit to the clergy and to the people, fostering piety, Christian life, and, furthermore, strengthening that salutary harmony of minds and wills which we so greatly desire. Finally, concerning all matters pertaining to the protection of the ancestral faith and religion, to the growth of institutions bearing the Catholic name, or even to the discipline of the clergy, both secular and regular, we believe it to be the best and most wholesome course of action, Venerable Brothers, if you are accustomed to conferring frequently among yourselves, and if, with this common judgment, you decide upon what is either necessary or more opportune. We trust that all the Catholic people of Hungary, seeing the precariousness of their circumstances, and in all that we have stated, will recognize the most studious and devoted concern of our paternal solicitude for them.

(1) II Timothy 2:4.

(2) Reg. Past., p. II, c. VII.

[*Latin ed. p. 136*]

136 ENCYCLICAL LETTER: May those who are aware [of these matters] strengthen their spirit, and may all, as is fitting, obey our laws and instructions. And may the Lord be favorably disposed to you, Venerable Brothers, and also to the clergy and the Catholic people, who, with one mind and one spirit, strive diligently for religion; and may He grant abundant blessings to your endeavors. And it will certainly not be lacking in the most holy and most just will of the highest Prince, that is, your Apostolic King, whose merits have been widely recognized from the very beginning of his reign. But that all things may proceed according to our wishes and prosperously, let us, Venerable Brothers, offer fervent prayers to God, and you also join us in prayer: implore the most august protection of the Divine Mother;

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and also implore the faithful protection of your patron, the holy Apostle Stephen, that Heaven may regard Hungary with benevolence, and that the divine benefits of the holy religion may be preserved inviolably there. – As a pledge of heavenly blessings and a witness to the benevolence of Our paternal heart, We impart Our Apostolic blessing to you, Venerable Brothers, and to your entire clergy and people. Given at Rome, near St. Peter, on the 11th of September, in the sixteenth year of Our Pontificate. LEO XIII, POPE. FROM THE HOLY CONGREGATION FOR BISHOPS AND REGULAR CANONS OF SENIGALLIA. REGULATION CONCERNING THE PARISH. On March 17, 1893. Since the parish of Clairvaux in the diocese of Senigallia is vacant, the Order of Cîteaux, to which it has belonged since time immemorial, has appointed the devout Father Fanelli as its administrator, who, upon being requested, accepted the administration of the parish in December of the year 1890. The Bishop of Senigallia, having considered... [COMPENDIUM OF FACTS].

[*Latin ed. p. 137*]

SENOGALLIEN. Afterwards, having observed that this religious man had not been able to obtain the royal license for a precarious office, nor was he suitable for the care of that parish, nor would he be accepted by the parishioners, the Superiors of the aforementioned Order requested that they nominate another religious man to provide for the stable administration of the parish. The aforementioned Superiors promised to fulfill this request by nominating the religious Father Segantini, who was highly regarded by the Bishop; but later, on December 18, 1891, they informed the Bishop that they had decided to suspend the aforementioned nomination of Father Segantini, and to return the entire matter to the Bishop, requesting that he himself provide for the parish through a nomination, to be made at his discretion, of another priest outside of their Order as the parish priest of Claravalle. The Bishop was greatly displeased by this, and therefore rejected the offered election and further insisted on his previously stated desire with the aforementioned Superiors. But achieving nothing with them, on February 19, 1892, the Sacred Congregation declared that if the Bishop himself were to nominate a parish priest, he would be the only one in the most frequented parish, completely lacking any assistance, and subject to envy, so that he would be utterly insufficient to meet the needs of the parishioners and entirely unprepared to bear the parochial burdens; and then it demanded that the Cistercians either seriously and effectively provide for the administration of the parish, or else definitively and without any time limitation, send a notification to that effect. The Cistercians, having heard this request from the Sacred Congregation, while attempting to mitigate the difficulties, in turn requested that the Bishop either provide for this matter himself, or that he appoint Father Fanelli as a parish priest, and entrust him with the administration according to the royal decree, or

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finally, that he accept the nomination of another religious man who would administer the parish under the authority of Father Fanelli. This is the state of the matter. A synopsis of the discussion – The Council of Trident, chapter 7, section 23, on reform, most clearly teaches that [something favoring the Bishop].

[*Latin ed. p. 138*]

138 SENOGALLIEN. "Pastors, per mandato divino, sunt tenuti agnovisse suas oves, et pascere eas per verbum divinae praedicationis, administrationem sacramentorum, et exemplo bonorum operum; curare paternaliter pauperes et alias personas miserabiles, et incumbere in cætera officia pastoralia." Et cap. 4, sess. 24 eadem S. Synodus addit: "Ipsi etiam (pastores), saltem diebus dominicis et aliis festivis, curabunt pueros in singulis parochiis diligenter doceri rudimenta fidei, et obedientiam erga Deum et parentes." Verum est quod non potest dubitari hodiernus oeconomus spiritualis valde deficere in his muneribus: hoc asseritat Episcopus; hocque testantur non pauci parochiani claravallenses. Sane, Episcopus vult deplorandum et evidens factum: quod nempe post mortem P. Michaelis, status paroeciae pedetentim in peius ruerit, non solum ex nequitia temporum et specialibus loci adiunctis, sed etiam ex negligentia successorum praefati P. Bovi, inter quos P. Fanellius, sollicitudinis expers pro animarum cura, minus idoneus est ad excitandos pietatis ac religionis sensus in Christifidelibus, iamdiu destitutis pastore animarum saluti studioso. Nisi propterea parochus sollicite nominatur, qui non quaerat quae sua sunt, sed quae Iesu Christi, incredulum fieri totum populum censet idem Episcopus; cui chorum agunt non pauci parochiani, qui distinctius ac magis praecise accusant P. Fanellium de negligentia in administratione Sacramentorum, morientium adsistentia, puerorum instructione, sacrarum functionum adimplemento, ecclesiae nitore, missarum Purgatorii satisfactione, etc., et qui sub iuramenti fide testantur: Claravallensem paroeciam numquam fuisse in adiunctis adeo pessimis, sicut in praesens, quo regitur ab Oeconomo P. Fanellio. Ex his autem satis apparere deducebatur necessitatem sive removendi P. Fanellium, sive alium idoneum nominandi, iuxta Episcopi petitionem. Atque huc insistendo, quoad praefatam imprimis remotionem, alia causa addebatur: odium videlicet plebis. Quandoquidem P. Fanellius, prout refert Epi-

[*Latin ed. p. 139*]

SENOGALLIEN. Many, and not a few parishioners, testify that, led by the spirit of avarice, he is careless in his conduct, ill-suited for the preaching of the Word of God, and reprehensible in many other ways, and has completely lost the trust of the people; so that there are even those who have not received Holy Communion during Easter! Moreover, what is established

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by law is not unknown: namely, that the parish priest may be removed if he, through the hatred of the people, is unable to work for the salvation of souls. Thus, in chapter 10 of the Decree on Renunciation, and in chapter 6, session 21 of the Council of Trent, concerning reform. And the practice of the Holy Congregations is entirely consistent with this, as can be seen in numerous resolutions of the Holy Congregation of the Council, and especially in the document *Barem. Designalienis et reintegrationis die 29 Maii 1852 § Iustitia*), where it is written: "It is the practice of the Holy Congregation that, due to the hatred and animosity of the parishioners, if these are just and reasonable, the parish priest should be deprived of his office." Indeed, both law and the practice of the Holy Congregations teach this, even in the case where the hatred of the people is proven without any fault on the part of the parish priest. And rightly so, because of the well-known axiom: the salvation of souls is the supreme law; from which it follows that the parish priest is for the people, and not the people for the parish priest. Now, if this is the case regarding parish priests who are not removable, it must be urged even more strongly in this matter, because we are not dealing with a true parish priest, but with a spiritual administrator who, moreover, has not yet been able to obtain the approval of the royal authorities for his precarious office. Therefore, by law and by right, the Bishop insists that the Cistercians either abandon the parish altogether, or appoint a suitable priest to it, who is concerned and diligent in the glory of God and the salvation of souls; all the more so, because the Bishop himself, for the reasons explained above, is in no way able, as the aforementioned Cistercians desire, to provide for the parish in this particular instance.

REPLY OF THE CISTERCIANS. — The Cistercians, on the other hand, maintain that there is no primary canonical reason for removing Father Fanellius, since he is a man of mature age, over fifty years.

[*Latin ed. p. 140*]

140. SENOGALLIEN, though not yet of full age, possesses a greater knowledge than that required for the office of parish priest, having distinguished himself in theological studies at the Gregorian University; endowed with piety and good, irreproachable morals, and having extensive experience in the care of souls and the duties of a parish priest, and indeed, in that very parish under discussion, where for approximately four years, since the year 3873, he has served as a substitute parish priest with great concern for the salvation of souls and equal diligence in fulfilling the duties of a parish priest. In confirmation of this, they mention a petition signed by two hundred and fifty parishioners, presented to the Bishop by the current spiritual administrator, with the aim of having him confirmed in this parish office. It is worth noting that this petition was largely signed by women; for 1° women, more than men, know how to distinguish between good and evil, and their testimony regarding the

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probity and good zeal of a priest should not be lightly dismissed: 2° those 250 women represent their families, in which far more men are counted, namely husbands, sons, and grandsons. Furthermore, to demonstrate that Father Panelli is well-received by the people and not at all unwelcome, the aforementioned individuals from Cîteaux mention that six hundred others, in addition to the aforementioned two hundred and fifty parishioners, were deeply opposed to the Bishop's hesitation and wished to initiate a public inquiry (commonly known as "alle Camere") in order to put an end to the delay. However, this petition did not proceed further, and this is to be attributed to the actions of Father Panelli himself, who, well aware of how ecclesiastical matters should be handled, prevented the parishioners from initiating such a disturbance. Therefore, the envy that now afflicts Father Panelli is not to be attributed to his own negligence or to the people's dislike of him, but rather to the ill-disposed attitude of the episcopal curia and to the malicious words spread by some individuals, who, like weeds, are eager to occupy foreign territory. Consequently, there is no canonical reason whatsoever to remove Father Panelli from his current, precarious position, and indeed, there is ample reason for his confirmation.

[*Latin ed. p. 141*]

SOGALLIEN. On April 14th, the Cistercians finalize the appointment of Father Fanelli to the established parish. Neither does the fear expressed by the Ordinary prevent this appointment: for, since the royal permission was denied to Father Fanelli for the office of Spiritual Economist, it would be all the more denied to him for the office of Parish Priest. The Cistercians respond that this fear is nothing more than a conjecture about the future, which creates suspicion against the Episcopal Curia, and which has no basis whatsoever, because Father Fanelli, like all good ecclesiastics, is appointed by the Pope himself, and prudently avoids involvement in political factions, nor does he undermine the established government with words or deeds; and because of this prudent manner of acting, he has never been accused before secular tribunals, let alone condemned. Furthermore, they assert that the royal permission was denied to Father Fanelli for the office of Spiritual Economist only because of secret machinations of the Episcopal Curia itself; and that the parishioners suspected this, and therefore devised the plan of promoting the aforementioned petition. Although the Cistercians could insist on their right for the Bishop to approve the appointment of Father Fanelli or another monk who, under Father Fanelli's authority, would administer the parish, nevertheless, for the sake of peace, they willingly offer to leave it to the Bishop to provide for this matter as he sees fit, according to what he judges to be most expedient in the Lord. This office, however, is unjustly rejected by the Bishop, since the reasons he has given are of no value whatsoever. For, 1° according to the testimony of Father Roland, the predecessor of the current spiritual administrator, it is proven

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false that the sacred furnishings would be denied to the new parish priest, as would be the case with Father Fanelli; and 2° if the other statements made in this matter were true, it would clearly follow that the Cistercian Order would be in a completely impossible situation in appointing a new parish priest. With these matters thus discussed, proposals were made.

[*Latin ed. p. 142*]

142 SENIGALLIA. Doubt I. Whether the Superiors of the Order of Cîteaux are obligated to appoint a new Parish Priest in place of the current Spiritual Administrator; or to definitively send a messenger to the parish, if the case arises? And, to the extent that the answer is negative: II. Whether the Ordinary of Senigallia is obligated, for this occasion, to appoint a new Parish Priest in this case? RESOLUTION. The Congregation of Bishops and Regular Canons, after fully discussing and considering the matter in plenary sessions on March 17, 1893, decided to respond as follows: To I. Affirmative to the first part, negative to the second part, with the faculty to also appoint a secular priest, and with the intention that it be written to the President of the Congregation of Italy for this purpose, so that, if it can be done prudently, Father Fanelli be transferred to another religious house, and Father Segantini be placed in the first. To II. Affirmative. Indeed, if the Congregation of Cîteaux cannot provide for this need either through a regular priest or a secular priest, the Bishop himself must provide for it by means of his own resources. PISA. VISITATIO OF THE MONIAL ORDER. On March 17, 1893. On May 22, 1892, the Superior of the Monastery of the Visitation of the Most Holy Mary in Pisa submitted a petition, explaining that in the year 1886, the regular Confessor was lacking, and that the Ordinary, to remedy this deficiency, provisionally appointed Father Luke Baldi from the Order of Minor Observants, until a suitable ecclesiastic could be found. A regular Confessor, according to the summary of the facts.

[*Latin ed. p. 143*]

PISANA served for three years and a half in her office, but she could not remain longer, because the community of the Observant Sisters was forced to leave a part of the city in which the Monastery was located. While the Superior and the sisters were being driven out, and especially because Father Baldi had built a hospice near the Monastery, in which the family of the Minor Observant Fathers could reside, two ecclesiastical persons were appointed to the same office by the Ordinary; and Father Baldi could not again be appointed to the office of confessor, because the Constitutions of these religious women do not allow a regular to perform the office of ordinary confessor. Furthermore, the Superior recounted that, after the death of Canon Casarosa, on March 7, 1892, the Monastery had lost its spiritual father. The religious, in order to vindicate their right to choose

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a spiritual father, according to their own Constitutions, proposed three canons, so that one of them might be appointed to this office by the Ordinary; but the Ordinary, on the contrary, proposed the Vicarius Generalis; but seeing that he was not readily accepted, he then, by his own authority, appointed Canon Ghisi as the spiritual father. This appointment did not please the nuns; for it became known to them that Canon Ghisi, a friend of the Vicarius Generalis, had common desires and prejudices with him. In addition to these circumstances, the Superior considered that the matter should be referred to the judgment of the Apostolic See, so that peace and tranquility might be restored to the consciences of the entire Community.

Synopsis of the Discussion:

Regarding the first question, of the three presented at the end, the Superior states that, according to the Constitutions of the Order, it is the right of herself and her companions to choose an ordinary confessor, whom the Ordinary approves, provided that, in such an election, the prescribed rules have been observed. But it is added that the election of Father Baldi was made in such a way, and therefore it follows that it must be approved by the Ordinary, unless the Constitutions of the Salesian Sisters are to be set aside. Furthermore, it is argued that the obligation of the Archbishop, with regard to the confirmation of Father Baldi, is greater, based on the principle of *DEFENSIO RELIGIOSARUM*.

[*Latin ed. p. 144*]

44. In PISANA, with the consent of the Archbishop and the Definitorium, the religious sisters established a hospice near the monastery, for the lodging of Minor Observant religious. It should also be noted that Father Baldi has fulfilled this office for three years and a half, so that all the religious have been fully provided for. Furthermore, the religious sisters observed that their own Constitutions do not prohibit a confessor from being a member of the regular clergy, but only stipulate that the spiritual director should be a member of the secular clergy, while the confessor, insofar as possible, should be of the regular clergy. Therefore, the rule is not absolute regarding the confessor, as it is regarding the spiritual director; and in truth, both in Italia and elsewhere in many monasteries, there are regular confessors, if a suitable secular priest cannot be found: and the monastery in PISANA has had four regular confessors since the year 1834. The Superior, in making the nomination of the spiritual director, states that, both by the Salesian Constitutions and by custom, this person must be chosen by the religious sisters themselves; whom the Ordinary is obliged to approve. This custom, she added, has been observed in 170 monasteries for nearly three centuries since the founding of the Salesian Institute, and since 1827, that is, since its foundation, it has been observed in the monastery established in PISANA. She then presented a list of spiritual directors, collected from the records. From these, it could be gathered that the Ordinary cannot impose a spiri-

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tual director upon the Salesian religious who is not pleasing to them, and who would disturb the peace and tranquility of the community. Finally, regarding the third petition, or regarding the removal of the General Vicar from the office of ordinary confessor of the religious, the Superior first cited the disposition of Constitution XIX, which deals with the confessor: "He must be a man of knowledge, prudence, and an irreproachable life, discreet, honest, and steadfast; so that the Bishop and the spiritual director may be pleased with his zeal and care regarding the moderation of the consciences of the religious." And it is not to be doubted that the General Vicar lacks, unless in all, at least in most of the qualities mentioned.

[*Latin ed. p. 145*]

PISA, 145. It appears, if one pays attention to what is presented in the aforementioned account, that ten years ago, a priest appointed to hear the confessions of three Religious women, who were elevated, difficult, and obstinate in their will, was so influenced by them that he shared their unjust opinions regarding the governance of the community. Recognizing the distinction that could arise from such a governance for these three Religious women, the ordinary confessor deemed it prudent to inform the then-Vicar General, who ordered the confessor of the three penitents to send a report to this office. The confessor then left the monastery, but now, since he himself is the Vicar General, and is resuming the governance of those women, he regards the Salesian Institute based on the impression he received and continues to receive from their information. In the year 1888, the Religious women, aware of the Bascherini, who was then the Vicar General, and who was not endowed with the qualities that constitute a good spiritual father, elected Canon Casarosa to this office; which displeased the aforementioned Vicar General, and caused him to increasingly oppose the Religious community. Indeed, he gave evidence of this opposition by preventing the Religious women from having Father Baldi as their ordinary confessor, and by advising the Religious women, through secret conversations, to retain the confessor, while suggesting to others that he was unsuitable for this office. Finally, the Superior reports that the Vicar General has sought and continues to seek to deprive the Religious women, whom he portrays as rebellious to authority, of the grace and protection of the most beloved Bishop, who was their glory and consolation while they suffered the hardships of expulsion from the monastery. Therefore, it follows that the Vicar General lacks the qualities required for a spiritual director and confessor, and therefore he should be removed from hearing the confessions of any Religious woman, and from the office of ordinary and extraordinary confessor; as the Constitution XX states, in the Acts, Volume

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XXVI, section CGCIII, 10.

[*Latin ed. p. 146*]

146 It must be the case that the PISANA [Pisa] possesses the necessary qualities, just as the ordinary [priest]. DEFENSE OF THE CURIA. The Curia seeks to demonstrate that Father Baldi, who has provisionally, on one or perhaps two occasions, fulfilled the office of confessor, cannot be appointed as the ordinary confessor of the Salesian religious order. Firstly, because the Constitutions of St. Francis de Sales, which subordinate religious orders to the authority of the bishops, exclude regulars from the office of ordinary confessor. And therefore, Father Baldi was appointed provisionally as the confessor of these religious. Secondly, because it is forbidden for regulars to be ordinary confessors in monasteries of religious women, because, "according to the general rule, the ordinary [priests] of a place cannot, without the permission of the Holy Congregation, appoint regulars as ordinary confessors for nuns, who are immediately subject to the bishop." Furthermore, the practice of the Holy Congregation is in accordance with this rule; for it is granted to the ordinary [priests] of a place the faculty of appointing a regular as the ordinary confessor when suitable secular confessors are lacking; see S.C. in Gritan, November 1721, concerning regular confessors of nuns; in Urbina, for the Minor Reformers, of September 5, 1727; and in Venice, concerning regulars who exercise the office of confessor of nuns, of May 12, 1617. Regarding the use of funds applied to the construction of a hospice for young people, the Bishop stated that he had understood that it was done as a loan, otherwise he would not have permitted such a large sum of money to be alienated, especially without the consent of the Apostolic See. Thirdly, since Father Baldi is the ordinary confessor of the Stimatine religious, he cannot be appointed for another religious family; the Sacred Congregation of Bishops and Regulars, of March 4, 1597, declared it an abuse for a confessor of nuns to be appointed for life, or for several monasteries. Benedict XIV, in the Constitution *Pastoralis Curae*, prescribes: "Only one confessor must be appointed for each monastery." Finally, it is known to the episcopal curia that Father Baldi is not pleasing to many of the religious, so that they are requesting another confessor.

[*Latin ed. p. 147*]

PISANA: The Religious [of the Order] petitioned the General Vicar to serve as an extraordinary confessor. Since, according to the statements of Father Baldi, he cannot be the ordinary confessor, the Archbishop, exercising his rightful authority, denied the request, even when the Salesians made the same petition. Regarding the matter of choosing a spiritual director, the Archbishop stated that this choice pertains to him, both by virtue of the Constitutions and by virtue of custom. This right is indicated by Constitution XXVIII, which states: "The Congregation shall remain under

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the ordinary authority of the Bishop, who shall appoint the spiritual director, who will take care of this matter in that name." This is true, even if one considers another edition of this rule, in which it is stated: "The Congregation shall remain under the ordinary authority of the Bishop from whom it requests a spiritual director..." For even from this passage, nothing more is granted to the Religious than the right to request a spiritual director; while the choice of said director remains with the Archbishop. He is best able to discern the talents and suitability of his priests for various duties of the sacred ministry, and to entrust them with these duties accordingly. Regarding the third petition of the Religious, namely, that the General Vicar be removed as spiritual director and ordinary confessor, and that he be prevented from entering the monastery when requested for an extraordinary confession, the Archbishop observed that nothing more unjust and unprecedented could be requested. For, in order for this to be granted, it would have to be demonstrated that those making the request cannot benefit from the decree *Quemadmodum* (1), and that the General Vicar's ability to hear confessions and his freedom to enter the monastery would be taken away. The General Vicar has never been, nor would he ever wish to be, an ordinary confessor, due to the many diocesan affairs that he must attend to. Furthermore, all accusations against the General Vicar are tainted with calumny and falsehood. The Archbishop does not understand how it can be asserted, with such assurance, that the General Vicar lacks the qualities necessary for the good of the spiritual well-being of the Religious community, when he has been frequently sought after and has been received with great benefit by many. With these considerations in mind, the proposed requests must be carefully examined.

(1) *Recollections* XXIII, 505 and Vol. XXV, 109.

[*Latin ed. p. 148*]

PISA 148. Questions. I. Should a regular confessor, Father Luke Baldi, be appointed for the Salesian Religious of Pisa, at least until one who is acceptable to them can be found? II. Is the Most Reverend Archbishop of Pisa obligated to approve the spiritual father chosen by the Salesian Religious, according to the Constitutions and customs of the Salesian Order? III. Can the General Vicar Bascherini be forbidden from receiving the confessions of those Religious from whom they are repelled?

RESOLUTION. The Sacred Congregation of Bishops and Regular Canons, after deliberation on March 17, 1893, decided to respond: To questions I, II, and III, negatively, and to write to the Archbishop accordingly. The reasoning is: It is not fitting that the General Vicar should receive the confessions of Religious in the ordinary way, lest others take example of this in requesting particular confessors; which would be contrary to the norms of common law.

LUÇON. JURISDICTION. June 2, 1893. SUMMARY OF THE MATTER.

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The Bishop of Luçon, during a visitation of the religious houses, presented a report to the Sacred Congregation of Eastern Churches and Regular Canons concerning the Institute of nuns taking simple vows, commonly known as the Congrégation des filles-de la Sagesse, founded by the Blessed Louis Grignon de Montfort, and whose principal house is located in Saint-Laurent-sur-Sèvre in his diocese. He stated that this Institute had been approved in 1853, but that the approval of its Constitutions had been delayed, as they needed to be reformed according to instructions from the Sacred Congregation. He then detailed further matters concerning...

[*Latin ed. p. 149*]

LUÇON. 149. A difficulty arose from the fact that the Superiors General of the Congregation of Mariana, both founded by the Blessed Ludovico Grignon, claim to exercise such authority even with regard to the Institute of the Daughters of Wisdom, directing them independently of the Ordinary, convening their Chapters, presiding over them, and overseeing their discipline and administration. Hence, the following questions were raised: 1° Whether the Superior General of the Congregation of Mariana could be retained as the Superior General of said sisters; 2° Whether this Institute could be considered exempt from the jurisdiction of the Ordinary; 3° Whether the Bishop of Luçon, at least as a Delegate of the Holy Congregation, could convene the Chapter of said sisters and preside over it. The resolution of this last question was urgent, because general elections were imminent before the feast of Pentecost in the year 1890. The Holy Congregation responded: 1° That the Chapter should, for this occasion, be postponed at the will of the Holy See, ordering at the same time that those sisters who are currently governing the Institute should continue to govern it, to the satisfaction of the Holy See; 2° That the current Constitutions of the Institute, along with a report on its disciplinary and economic status, and on its novitiate, should be transmitted to the Holy Congregation for approval, but dependent on the Bishop of Luçon, or with his approval. The Sisters of Wisdom, to whom the aforementioned Rescript was transmitted by the Bishop of Luçon, and who, through their General Superior, transmitted it to the Holy Congregation along with observations and requested documents, petitioned: 1° That before their current Constitutions were revoked, the question of the Superior General should be resolved; 2° That this Superior should be none other than the Superior General of the Society of Mariana. A Consultor of the Holy Congregation, to whom the observations were submitted in his vote, admitted the first part of the petition, but vigorously opposed the second regarding the Superior General. The same opinion was expressed by the Bishop of Luçon in his letters to the Holy Congregation, dated January 29th of the current year. Meanwhile, the Sisters of Wisdom offered to the Holy Congregation several articles concerning the practical

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exercise of the power of the Superior General.

[*Latin ed. p. 150*]

150 LUCIONEN. with the privileges and jurisdiction of the respective Ordinaries of the Institutes: And the Consultant, having been asked about the new allegation, remained with the same opinion. Synopsis of the Discussion. WHAT IS PRESENTED IN THE FEAR OF THE DAUGHTERS OF WISDOM. The nuns argue that they must retain a General Superior, first from practice or tradition, almost two hundred years old. Indeed, the Blessed Founder of both Congregations willed, as stated in the Rule, that the General Superior of the Congregation of Marianae should also be the General Superior of the nuns: they claim this is confirmed by the will of the first General Superior of the nuns, in which she commands obedience to the General Superior of the Congregation of the Most Holy Spirit, because this Superior was given by the Blessed Founder of Montfort to govern the Congregation and for the observance of the rule: this rule was approved by time in 1715 by the Bishop of Rupellensi de Champflour and until 1750 by eight other Bishops: this rule was more fully developed in the Constitutions of 1760, drawn up and solemnly accepted in two General Chapters of the sisters, to which the approval of the Bishop of Rupellensi was added in 1773. Furthermore, the General Superior of both Congregations has been recognized on several occasions by the Bishops of Rupellensi, such as Bishop Paillon in 1811, and by the Bishops of Lucionenses, such as Bishop Poyer in 1822, under whose jurisdiction the primary house of the Daughters of Wisdom was located, and here, in the approval of their rule, they list the common superiors of both Congregations from their foundation. Then, the nuns present their argument. The principle of a common General Superior of both Congregations, not only admitted by the Ordinary authority, but also implicitly recognized by the Apostolic See: and they contend that this can be proven: I. From a brief issued by Leo XII in 1825 to the Reverend Father Dehayes, as the General Superior of both Congregations, in which two In-

[*Latin ed. p. 151*]

LUÇON. 151. The aforementioned facts are established. 2° From the decrees of the Most Holy Congregation of the Eastern Churches and the Sacred Congregation of Religious, approved in the year 1853, which recognize these congregations as institutes of simple vows, and 3° From the very fact that, in the election of the Superior General, the aforementioned congregation has always desired, with the utmost diligence, to observe the Constitutions, as is evident from the elections from the year 1863 up to the year 1884. From this, the nuns conclude: that, from a tradition and observance of nearly two hundred years, the Superior General of the Congregation of the Mariana Islands has also been the Superior General of the

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Congregation of the Daughters of Wisdom, and that this has not only been with the consent of the Ordinary, but also with the tacit approval of the Holy See. And that from such a union of superiors, no confusion arises, provided that the same [Superior General] oversees the proper administration of both congregations, and that the assets of both institutes are entirely distinct; indeed, it has brought them great benefit and progress, both in the observance of the rule and in the preservation of the original spirit. And that, if, in the year 1793, the congregation did not fall away from the fervor of its original spirit, nor was it immune from apostasy or schism, this fact should be repeated. Therefore, the Superior Generals should not be considered as harmful, but rather as beneficial to the congregation. Finally, the nuns assert that they must retain the Superior General, because a change in this point of the rule would cause more inconveniences and damages. Indeed, 1° There would be as many superiors as there are Ordinaries, in whose dioceses houses of the Institute of the Daughters of Wisdom exist; hence, there would be a lack of unity of spirit and direction. 2° The missionaries of the Society of the Mariana Islands, well instructed in the spirit and doctrine of the Blessed Founder, would be replaced by other priests, who are often uneducated in this matter, to the evident detriment of the congregation. 3° But, above all, a great scandal would arise among the faithful, who would certainly believe that such a change had its foundation in causes of a moral order. Therefore, the nuns conclude, presenting the testimony of the Bishop of Luçon, Colet, who was later transferred to the Archiepiscopal See of Tours, who separated...

[*Latin ed. p. 152*]

152 LUGIONEN. The Congregation of Daughters of the Wisdom has always been opposed by the Spiritan Fathers, as missionaries, considering it a source of harm, while greater benefits could be derived from the union of both Institutes. OPINION OF THE CONSULTOR. However, the Consultor of the Holy Congregation holds a different view. Firstly, he observes that in the past, the Constitutions of new Institutes, presented to the Holy Congregation for examination, in which the General Superior was mentioned, have always been deemed correct, as if they were harmful to the jurisdiction of the Ordinary in whose diocese the Institute exists; and he cites the authority of Bizzarri in his work, *Collectanea*, where more examples are given on this matter, and rightly so, because otherwise the jurisdiction of the Ordinaries would be undermined and continuous disputes would arise. Furthermore, the Consultor states that the memorials and documents presented by the Sisters of the Wisdom should not be considered, since they lack the necessary approval of the Bishop of Lucion, through whom they should have been presented, according to the instructions and mandate given to that Bishop by the Holy Congregation in its letters of November 20, 1889. These letters, although regularly communicated to the nuns, were

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ineffective. However, approaching the refutation of the nuns' claims, the Consultor states that the nuns falsely assert that the General Superior has been with them since the time of the Blessed Founder. The nuns cite as a rule that the Superior at that time could not have done anything without the advice of the Spiritual Father. According to the Consultor, this was not the case, unless the Spiritual Father was the confessor of four nuns, whom he only oversaw within the Institute of the Daughters of the Wisdom at the time of the Founder's death in 1716. It would have been ridiculous to speak of a General Superior at that time; only in 1768, when the Constitutions of the nuns were approved at the General Chapter, did this confessor begin to be considered as the General Superior, to whom the Institute was subject. Furthermore, the nuns' argument that they are presenting the will of their first Superior is of no avail, if the nuns obtained for their Superior the position of General Superior of the Congregation of the Mariana Islands, it was done with the prior consent of the Bishop of La Rochelle, as was the case for Fathers Mulot and Andubon. Therefore,

[*Latin ed. p. 153*]

LUÇON. 153. The origin of the Superiority must be reviewed according to the Constitutions mentioned above. Then, the Consultor refutes, according to the argument of the Monials, namely, concerning the agreement on this point of the Ordinaries and of the Holy See itself: he glosses over the agreement of the Ordinaries, since it would be too lengthy and tedious to discuss in what manner and under what circumstances he was appointed; he only responds to the actual Bishop of Luçon, stating that the approval of the Bishops was not in the sense of a memorial from the daughters of la Sagesse, but that the General Superiors were recognized as Delegates of Episcopal Authority, according to canonical sanctions. However, concerning the implicit approval of the Holy See, he prefers entirely to argue that it can be inferred from the letters of Leo XII addressed to Father Gabriel Dehayes, President General of the Congregation of the Preachers of the Holy Spirit, and also of the Congregation of the Daughters of la Sagesse: these laudatory letters, as well as other Briefs and Rescripts issued by Pius IX and by the Sacred Congregation, indeed testify to the fact of a double Superiority, but they establish nothing as to the legal question. Nor can this approval be inferred from the Decree of the Sacred Congregation approving both Institutes mentioned above, namely, the Congregation of Mariana and the Congregation of the Daughters of Wisdom; for when the Sacred Congregation approves both Institutes, it declares, by way of fact, that nothing prevents the interim observance of the Constitutions concerning the reform, etc. Hence, the judgment concerning the Constitutions is prolonged: indeed, the question concerning the form of government, or of the General Superior, properly belongs to the Constitutions, which still lack approval. Finally, the Consultor expounds an argument drawn, both from the utility

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of the preservation of a common General Superior in both Congregations, and from the damages that would result from the suppression of the same, and thus refutes. According to the Monials, the greatest utility that derives from the preservation of a General Superior in the spiritual order is that, in this way, the same spirit is preserved in all the houses of the Congregation, from the beginning.

[*Latin ed. p. 154*]

54 LUÇON. May obedience flourish, and may the danger of laxity in the rule be avoided. But could not the same effect be achieved through the unity of governance by the Superior General? Regarding the material benefit, the Consultor states that it cannot be achieved through the action of the Superior General, who resides in a remote part of Galliae, while the Institute of the Daughters of the Sacred Heart also exists in the most remote regions. Regarding the damages and inconveniences that the nuns claim would result from a change in the general direction of the Institute, the Consultor replies that unity of governance is consulted through the Superior General: she, together with the General Council of her sisters, will determine whatever is best for the proper discipline and governance of the Congregation. Furthermore, regarding the desire for better guidance of conscience by the Missionaries of the Congregation of Marianae, the Consultor observes that nothing prevents these from being called by the Superior General for spiritual exercises, or as preachers, or as confessors, just as nothing prevents them from being taken from the secular clergy of the respective dioceses. Finally, regarding the fear of scandal raised by the nuns, the Consultor believes this to be a delusion of fantasy: if it is not a question of a complete separation of communication between the two Congregations, but only of a form of governance that, in addition to placing one Congregation under the dependence of the other, would contradict the dispositions of the sacred canons. On the other hand, it is incumbent upon the Holy Congregation to prudently direct this matter so that even the shadow of scandal may be avoided. Therefore, the Consultor concludes, the documents and arguments of the nuns should not be given any weight, even if they were to be provided with the necessary authenticity or with the approval of the Bishop of Lucionensis, which, however, is lacking in this case. But leaving aside what has been said so far, the Consultor continues, the theory of a single Superior General in both Congregations not only contradicts the discipline of canon law, but is also a source of disputes and discord, both with regard to the internal governance of the Institute and externally with regard to the jurisdiction of the Ordinaries. It is of no benefit to argue with the nuns that for almost two centuries this has been...

[*Latin ed. p. 155*]

LUÇON. One hundred and fifty-five persons were absent, if we consider

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that the Consultor, having heard the testimony of the current Bishop of Luçon, responded that shortly after the year 1853, when, by decree of the Sacred Congregation, the practice concerning the Superior General had been, in some way, permitted or tolerated, these disputes arose with the Ordinary of Luçon at that time, to the point that the Superior General was forced to relinquish a double office or function; then, whatever may be the case regarding experience, even in this matter, the Consultor affirmed that what happened at a certain point did not happen in a particular year; therefore, the principle of double superiority must be rejected. Finally, the Consultor refuted, one by one and in several ways, the practical articles proposed by the Nuns in order to reconcile the authority of the Superior General with the jurisdiction of the Ordinaries, within whose dioceses the houses of the Institute are found. After both sides had been discussed, the following questions were presented to the Sacred Congregation: I. Whether and how the Daughters of the Wisdom should preserve the Superior General with jurisdiction over the entire Congregation in this case. II. Whether the Superior General of the Fathers of the Society of the Mariana Islands, elected according to the rules of this Institute, should be appointed to this office in this case. RESOLUTION. The Sacred Congregation, having subjected the matter to mature examination, and the questions having been proposed on June 2, 1893, decided to give the following response: Saving in all respects the canonical sanctions, the authority and jurisdiction of the Ordinaries over each house of the Daughters of the Wisdom, and saving the power of the Superior General, nothing is to be changed regarding the faculty granted to the Superior General of the Society of Mary to preside over the General Chapter of these sisters, to oversee and promote the observance of the Constitutions in each house, and to place those acts under the due dependence of the Ordinaries, which can contribute to the good and growth of the Congregation.

[*Latin ed. p. 156*]

ORAN. CONCERNING PROPERTY on the 2nd of June AND ESTABLISHMENT. 1893. A SUMMARY OF EVENTS. The Reverend Joseph Catà, originally from the Diocese of Barcelona in Spain, having requested service in Africa in the year 1873, was, after a few months, appointed by the Ordinary of Oran as a Vicar in the parish of Karguentah, where a colony of Spanish people resided. The Reverend Catà always acted as a good pastor towards the faithful entrusted to him, who shared the same language and customs. In the year 1876, moved by a desire for the spiritual well-being of souls, he conceived the idea of establishing an Asylum, in which the daughters of Spaniards, along with sustenance, would receive religious and civil education. However, funds were lacking, so that he could not undertake the project alone; hence, he appealed to public charity for assistance. The Ordinary, in order that the work might be completed, with the authoriza-

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tion of the ecclesiastical authorities, decreed that a collection be taken up in the parish church of Karguentah, and that the clergy of the Diocese, and all pious souls, be encouraged to contribute to the work of charity. Eventually, a group of noble women took charge of the undertaking. With these aids, and with money collected throughout the Diocese, the Reverend Catà purchased land and built a building; which he registered in the public records under his own name. Nevertheless, much was still lacking in order that the girls might be received and cared for in the newly established Asylum. In this regard, the Oran ecclesiastical authority granted permission to the Reverend Catà to travel to Spain for the purpose of collecting alms; and he was given letters of introduction to the Bishops and other ecclesiastical superiors of that nation. The results exceeded all expectations: for the collection was so abundant that Catà was able to complete everything, and to pay all expenses in full. The Asylum, under specific conditions, herein made and excepted, was entrusted to the religious sisters of St. Teresa, of Spanish origin. The Bishop, on the 4th of March of the year 1885, approved and solemnly established these same religious sisters in the possession and direction of the aforementioned Asylum; and in the year 1886, to this group of religious women,

[*Latin ed. p. 157*]

ORANEM. 157. The Company of Saint Teresa of Jesus received episcopal approval. After a promising beginning, discord soon followed; for the priest Catà, believing himself to be the sole and true lord of Asolo, presumed that some rules, devised by him, would be followed by the Religious concerning the admission of girls and the management of Asolo, with the intention of asserting his authority. However, when this proved fruitless, fearing, as he himself recounts, that the character of the work would be corrupted, and because girls were being received from wealthy families to the exclusion of poorer families; against the will of the Religious and the ecclesiastical court, he admitted four young women into Asolo, whom he called "religious Africans," with the intention of providing companions for the daughters of Saint Teresa; to whom he immediately ordered to leave, unless they wished to be expelled by civil authority. Astonished by these actions, the Bishop sought to persuade the priest Catà to adopt a more moderate course, but in vain; for he became increasingly presumptuous in his desire to control Asolo. Indeed, he threatened to bring the Religious to court, unless they paid him the alleged debt, and to reclaim, in his own name and in the name of the donors, the alms collected for the construction of Asolo. At that time, the Ordinary informed the priest Catà that he had incurred an excommunication reserved to no one, imposed by a decree of the Apostolic See, because he had claimed that Asolo was subject to a legal mortgage; and that he incurred a special excommunication, also by the same decree, to the extent that he had brought the daughters of

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the Religious of Saint Teresa before the secular courts. Furthermore, he exhorted the same priest to abstain from celebrating Mass until he was absolved from censure, to revoke the order for the expulsion of the Religious by civil authority, and to remove the four "Africans" from Asolo before June 13, 1891. However, the priest, instead of revoking the order, ordered, on May 23rd, his lawyer to bring the aforementioned daughters of Saint Teresa before the secular court, in order to have them formally expelled from Asolo, even by force. Regarding this matter, the vicar general...

[*Latin ed. p. 158*]

158. ORANEN. The prelate warned that this action had resulted in excommunications being imposed by the Apostolic See, one against those "who, directly or indirectly, compel lay judges to bring ecclesiastical persons before their tribunals, contrary to canonical regulations," and another against those who directly or indirectly impede the exercise of ecclesiastical jurisdiction. At one point, a lay tribunal ordered the Religious to leave Asolo, under penalty of being forcibly ejected within three months. And, after three months had elapsed, they were forcibly ejected. Following this judgment, the prelate informed the Bishop that he would submit this matter to the judgment of the Apostolic See. Synopsis of the Argument. DEFENSE OF THE PRIEST CATA. Since the entire question is limited to the property of Asolo and the expulsion of the nuns from it, the advocate divided his argument into three parts. In the first point, he asserted that the property of Asolo belonged exclusively to the priest Cata; in the second, he defended the justice and reasonableness of the expulsion of the religious; and in the third, he addressed certain objections raised to the contrary, both with regard to the first and second points. Regarding the first point, he strongly argued that the property of Asolo belonged exclusively to the priest Cata, because it was purchased solely in his name, for the purpose of building the Asylum; this purchase was recorded in public documents and registered in the mortgage office; and the regular transfer of the aforementioned property was made. Furthermore, he argued that Cata possessed the property because he himself exercised public and notorious acts of possession and ownership; because he alone engaged the craftsmen and workers who built the Asylum. All of these things, taken together, cannot be denied to constitute a title by which property and ownership are transferred; for it is certain in law – that ownership is transferred by the tradition of things.

[*Latin ed. p. 159*]

ORANEN. 159. He added that it is true that the property of Asolo belongs to the priest Catà, so that no one should ever question this, nor even the episcopal court, which has never contradicted it. Therefore, the Archbishop of Toledo and the Bishop of Madrid considered that the priest Catà

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was the owner of Asolo, because this house does not belong to ecclesiastical goods, but is a pious, secular work. And therefore, it is not surprising that the secular court of Oran, having considered these documents, has ruled that the property of Asolo belongs to the priest Catà. The defender argues that it does not help that the money used for the construction of Asolo did not belong to the priest Catà, but to the faithful; and therefore, Asolo should not be considered to belong to Catà, but to the faithful themselves or to the Church. However, 1°. It cannot be said that the aforementioned money did not belong to him, but to the faithful; because truly, a part of that money belonged to him, a larger part to his parents, as the same Ordinary admits, and the rest to the faithful. 2°. Because, granted that the said money belonged entirely to the faithful, it does not necessarily follow that Asolo does not belong to the priest Catà: for it is known in law that a property or possession purchased in the name of one person, even if with money belonging to another, becomes the complete property of that person, if it was regularly transferred to him, as in this case. I. i. of the Code, title: "If someone buys for another, or for himself under another's name, or with another's money," there is: "If the father's money and mancipations were used, yet if you claim that the purchases were made in the name of your mother, you must not ignore that your mother is established as the owner by tradition." This is consistent with laws 2 and 8 of the same title, and 6 of the Code, title: "On the recovery of property" (there): "If, from the money that was deposited with someone, he acquired possessions, and they were transferred to him, it is unjust to refuse to transfer all of them, or some of them for compensation, to him from the one who unjustly detains them." Furthermore, it is not helpful to argue that this money was given by the faithful, and therefore Asolo has become a sacred property.

[*Latin ed. p. 160*]

160 ORAN. and religious, namely the property of the Church, and certainly not of a secular priest: for this would be a completely new doctrine. In truth, Urban III, having been asked by the Bishop of Ariminum, when a place where the poor are housed can be considered sacred and religious, replied that, if it has been designated by the authority of the Pope, chapter IV concerning religious houses. Now, it is certain that in this case, this apostolic institution was lacking, and that no trace of it is found in the Oran diocese. The defender supports his argument with the example of the Advocate Longo, who obtained Asylum in the valley of Pompeii through the alms of the faithful, and who is the lord of this Asylum before the gentiles, without any opposition. And the Supreme Pontiff did not object, but rather encouraged him and added his blessing to him. Regarding this matter, if the secular priest of Oran possesses the property of such an Asylum, as a lay property, it follows that the same priest, if he sells or mortgages said Asylum without a dispensation from the Holy See, cannot be subject to

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ecclesiastical censure according to the established procedures of the Holy Congregation, as stated in the report and apostolic approval of March 2, 1839, § last. Regarding the second point of his argument, the Advocate states: it cannot be doubted that the expulsion of the daughters of Saint Teresa from the Asylum is just and reasonable; because the secular priest of Oran, as has been abundantly demonstrated, is the lord of that Asylum; now, no law, whether civil or ecclesiastical, forbids a lord from disposing of his property. But furthermore, these Religious were removable, as was reported to the new Bishop of Oran by the enemies of the same priest of Oran; and Osso, the founder of these daughters, wrote to the Archpriest of Oran, threatening to recall those daughters from Africa, unless they obeyed the spiritual and economic direction. Now, if the founder could remove them, then all the more so can the lord of the Asylum. It cannot be objected that no one can be removed from their proper office without a just and reasonable cause; and this matter has not lacked serious considerations. In fact, the Religious themselves, without the consent of the secular priest of Oran, increased their number from 5.

[*Latin ed. p. 161*]

161 ORANKN. ad 12; they received in Asolo, for a price, wealthy girls, in place of poor girls, thereby corrupting the nature of the institution; they never showed obedience to the priest Catà, but sought to deprive him of the property of Asolo. And therefore, it cannot be said that the daughters of St. Theresa were expelled without just and reasonable cause. Having established these points, the speaker proceeds to refute the objections raised against them. First, it is said that Asolo is not a secular institution, but a religious, sacred, and ecclesiastical one, because, by permission of the Bishop, a collection box (capsa) was placed in the parish church for collecting the alms of the faithful, intended for the benefit of Asolo. The response is: (setting aside the fact that the collection box was not built for the benefit of Asolo), but for the benefit of the daughters of Mary, it is clear to everyone that such a permission can be granted by a decree of the Bishop. And even less can permission given by the Bishop to collect alms in the Hispanic kingdom be considered a decree of the Bishop. To the objection raised to the contrary, that the title of the priest concerning Asolo is merely civil, the response is given through an aphorism – what is asserted freely, can be denied freely. Similarly, the difficulty is dispelled that the daughters of St. Theresa are immovable, as they are canonically established, by the confession of the opposing party, and by the fact of Father Osso, the founder of these daughters, who threatened to recall them if they did not follow the spiritual and economic direction. But it is a mere calumny, he says, that it is alleged about the morals and religion of the Africanists; whose manner of acting has merited common approval. Therefore, the speaker concludes by saying that the daughters of St. Theresa could have been removed at

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the whim of the priest Catà, who is being hostilely attacked by his enemies, and he recommends to the Most Reverend Fathers justice and prudence, so that he may be relieved from the burden of this persecution. DEFENSE OF THE ECCLESIASTICAL AUTHORITY. The Defender, having stated that this concerns a strictly ecclesiastical work, and therefore dependent on ecclesiastical authority, divides his speech into four parts. He argues in the first point that neither property, nor...

[*Latin ed. p. 162*]

162. Furthermore, it is asserted that the administration of Asolo belongs to the priest Catà; in the second [section], it is maintained that the expulsion of the daughters, namely, Teresia, from Asolo, cannot be justified, and that the priest Catà, by expelling them, has incurred ecclesiastical censures; in the third [section], an effort is made to demonstrate that the priest Catà is obligated to expel the African sisters from Asolo; and finally, in the fourth [section], a response is provided with reasons and arguments against the opposing side. And, above all, to demonstrate that the property of Asolo does not belong to Catà, it is pointed out that he was required to solicit assistance from the faithful, even from Spain, in order to build Asolo, and to place a collection box in the parish church to collect alms; and that he did so with the authority of the Bishop, and collected numerous offerings. With these premises established, it follows that the assets of Asolo, by the force of Church law, belong to the Church, and are destined for the benefit of the pious work under the protection and authority of the Bishop. Council of Trent, Session 22, chapter 8, concerning reforms: "Bishops, as delegates of the Apostolic See, in cases prescribed by law, concerning all pious dispositions, whether in the last will or among the living, have the right to visit hospitals, colleges, and any other institutions, even those called schools or by any other name... alms of the 'mount of piety' or of charity, and pious places, whatever they may be called... and all that is instituted for the worship of God or for the salvation of souls, or for the support of the poor, they must, by virtue of their office, know and follow, according to the statutes of the sacred canons." Moreover, the defender argues that the work of Catà must be considered a Church institution, also because it was established by ecclesiastical authority. Indeed, with the authority of the Bishop, a collection box was placed in the parish church, where Catà was the vicar, and with the same episcopal authority, alms were collected from Orani and the faithful of Spain, in favor of the work approved by the Bishop; to this approval, the faithful acted with greater security. It is not necessary for a special decree of the Bishop, as the opposing side alleges, to make Asolo a Church institution; because in this case, the matter is far from...

[*Latin ed. p. 163*]

ORAN. 163, concerning private matters, but regarding alms collected,

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with the prior commendation and favor of the Bishop, for pious works. Barbosa, concerning the office and power of the Bishop, paragraph III, section 76, number 10: "Our money, we use it in whatever way we see fit, interposing our authority." The argument in favor of pious works is presented by the defender, and he cites the frequent indulgences granted by the priest Catà, who, even in his absence from the benefice, derived benefits from it. For if the Bishop did not have this in mind for pious works, he would not have so frequently allowed the same parish priest to neglect his duties and enjoy his revenues. Furthermore, Catà confessed to the Queen of Hispaniae that the existence of the Asylum had been recognized by ecclesiastical authority; and he himself granted the Bishop the right to appoint the director of this Asylum, when he established the governing regulations of this institution. Having established the ecclesiastical nature of the Asylum, the orator sought to demonstrate that the property of the institution did not belong to Catà; he deduced this from the declarations of Catà himself, and from written documents, from which it is clear that only land was purchased, and that the construction was begun with alms from the faithful, and not at all with his own money or that of his family. It is established that the amount of money collected from the faithful amounted to approximately 60,000 livres, as can be estimated for the Asylum. Regarding the administration of this work, the defender seeks to prove that the priest Catà does not possess the qualities that constitute a commendable administrator: he lacks order, sincerity, and prudence, as can be gathered from his actions. Speaking of the expulsion of the daughters of St. Teresa, the defender stated that it was unjust and contrary to the law, because these religious were established by the authority of the Bishop; and therefore, their expulsion should have been carried out by the authority of the same Bishop: for it is he who has the power to destroy, to whom it belongs to build: because this same authority is required by Article 131 of the synodal statutes of the Diocese of Oran. However, the defender continues, if the expulsion was unjust and contrary to the law, then it was invalid, and the daughters of St. Teresa must be restored to their former position.

[*Latin ed. p. 164*]

164. The Orator argues that there is no doubt that the priest Catà, through these unjust actions and those contrary to the law, has incurred ecclesiastical censures, as stipulated by the Constitution of the Apostolic See, chapter VII, Impediments. Furthermore, the Bishop could have excommunicated the priest Catà, because he initiated a civil process without the consent of the aforementioned, in accordance with the circular letters of the Holy Roman Inquisition of January 23, 1886 (1). The defender states that the priest Catà wishes to dominate others by any means necessary, and to impose his own will; therefore, he placed the daughters of St. Teresa in Asolo, believing them to be entirely subservient to his

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authority. However, when things did not proceed as he wished, and these Religious did not always conform to his will, because they knew that they had others to whom obedience was due, he then devised fraudulent and reprehensible ways to expel them, and to replace them with others, whom he calls "Africanists." Under these circumstances, the Orator argues that the burden lies with the priest Catà to remove the Africanists from Asolo, whom he had, according to his own judgment, and through reprehensible means, placed there in the place of the daughters of St. Teresa, who had earned the affection of the common people and held a good reputation. "Our laws support our position," says the defender: "Trident. Sess. 25, cap. 3, de regno, et monialib, 'Nor shall similar institutions be erected henceforth without the prior knowledge obtained from the Bishop, in whose diocese they are to be erected.'" Furthermore, this is confirmed by the decree of Pius IX of January 25, 1848, and by Article 130 of the Synodical Statutes. Therefore, the Bishop of Orani has the right to reject [the Africanists], as he has in fact done, and the priest Catà is obliged to remove them immediately, so that justice may finally prevail for the daughters of St. Teresa. Finally, the defender refutes all the objections presented by the priest Catà against the Bishop and the daughters of St. Teresa; because these objections are entirely devoid of truth, and reveal a malicious intent, to achieve a preconceived end by any means. (1) The relevant circular letters are found in Vol. XVIII, 4=16.

[*Latin ed. p. 165*]

ORANEN. 165 Having considered these matters pertaining to both sides, the following questions were proposed: I. Whether and in what manner the property or simple administration of the Asylum pertains to the presbyter of Catà in case II. Whether and in what manner the expulsion of the Sisters of St. Teresa from the Asylum is justified; and whether the presbyter of Catà, by expelling them, incurs ecclesiastical censure in this case? III. Whether he is obligated to remove from the direction of the Asylum those Africans, now called "Africanists"?

RESOLUTION. The Sacred Congregation of Bishops and Regulars, after deliberation on June 2, 1893, decided to respond as follows: To I and II, negatively in all respects. To III, affirmatively, and further, as follows: It is the opinion that Catà remains suspended from the administration of the sacraments until: 1. He fully executes the present resolution; 2. He seeks forgiveness from the Bishop, and adequately repairs the scandal caused; 3. He commits himself to the Bishop, so that the civil title of the Asylum may be transferred to other persons, if and insofar as the Bishop deems it appropriate.

FROM WHICH WE MAY GATHER: I. That Bishops, as delegates of the Apostolic See, are the executors of all pious dispositions, both in testaments and during the lifetime of the testator, and they have the right to visit pious

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institutions, whatever they may be called. II. That all things which have been instituted for the worship of God, the salvation of souls, or the support of the poor, possess an ecclesiastical character, or pertain to pious causes. III. That an Asylum for orphans should be considered among pious causes, as may be gathered from the means by which it was founded, from the end to which it is destined, and from the authority which intervened to bring it about.

[*Latin ed. p. 166*]

166 DECREE. Concerning the union of the three Observances of the Cistercians of the Trappists. In Rome, a very large number of Abbots, Priors, and Superiors, or their representatives, from all the Observances of the Cistercians of the Trappists, having assembled according to the mandate of His Holiness, Pope Leo XIII, given to them through a Decree of this Holy Congregation of Bishops and Regulars, for the purpose of negotiation and consultation, on July 20, 1892, and presided over by the Most Reverend Cardinal Camillo Mazzella, Prefect of the Sacred Congregation of the Index, who was delegated by His Eminence Cardinal Raphael Monaco La Valletta, Bishop of Velletri, Major Penitentiary, and Protector of the Trappists, with the higher authority, and on October 8 of the same year, 1892, in the halls of the French Seminary of the Most Sacred Heart of Mary, they held the first general assembly of all the Observances. In this assembly, they demonstrated docility and devotion to the Apostolic See, a love for the regular life, a desire for the growth and prosperity of the Institute, and harmony of spirit and maturity of counsel, so that His Holiness could not doubt that this Chapter would be of the greatest importance in the history of the Order, and especially that they would be praised for the clear signs of unity and generous self-denial that they displayed. Indeed, as many matters were to be proposed for inclusion in the Constitutions, to be presented to this Holy Congregation within the year, and to be examined, there were also some matters, almost all of which were approved by common judgment, concerning which it was necessary to provide, so that the stability of the Institute would not be further delayed or left uncertain; therefore, after careful examination and discussion, this Holy Congregation considered it fitting to establish and decree the following for all time:

I. The three Observances of the Cistercians of the Trappists, namely Westmalle, Septemfontes, and Mellereac, shall henceforth constitute one Order under the governance of a single Superior.

II. This Congregation shall exist autonomously, under the dependence of the Apostolic See, with due regard for the rights of the local Ordinaries, according to the Apostolic Constitutions and the Constitutions of the Institute.

III. The name of this Order shall be: The Order of Cistercian Reformers

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of Saint Mary of Trapp; and the Superiors General shall be called.

[*Latin ed. p. 167*]

DECREE 167. The General Abbot of the Reformed Cistercians of Saint Mary of Trapp. IV. The seat of the General Abbot, his Definitor, and his General Procurator shall be in Rome. And the abbey which shall henceforth be assigned to the General Abbot shall be, above all others in the Order, in honor and authority. V. His Most Holy Father [the Pope] has approved and confirmed the elections made in the General Chapter of the General Abbot, the Definitor, and the General Procurator. The General Abbot: Reverend Father Sebastian Wyart, Abbot of the Monastery of the Seven Fountains (diocese of Molinensis in France). The Definitor: Reverend Father Malachias, Abbot of the Monastery of Saint Mary of Achei (diocese of Leodicensis in Belgium). 2° Reverend Father John, Prior of the Monastery of the Three Fountains (in the Roman suburb). 3° Reverend Father Bernard, Abbot of the Monastery of Saint Mary of Thymadeuc (diocese of Venetensis in Gallia). 4° Reverend Father Augustine, Sub-Prior of the Monastery of Mount Olivet (diocese of Gratianopolitan in France). 5° Reverend Father Hubert, Sub-Prior of the Monastery of Mount Olivet (diocese of Argentinensis in Germania). 6° Reverend Father Augustine, of the Monastery of Saint Bernard (diocese of Notthingam in Anglia). The General Procurator: Reverend Father Augustine, who is also the sixth Definitor. VI. The General Abbot shall retain the title of the Abbey of the Seven Fountains until the next General Chapter, and in the meantime shall entrust the administration of the monastery to a Prior chosen by him and dependent upon him. VII. Certain individuals, distinguished for their piety and learning, who shall be proposed by each abbey, shall be chosen by the General Abbot and the Definitor, and in Rome shall complete a course of sacred studies, for the benefit of all the clerics of the Order. VIII. For the purpose of experimentation, and until the Constitutions have been approved, it shall be within the power of each Abbot, or, by whatever name the superior of the house may be called, to follow one or the other of two hours proposed by the General Chapter to the Holy See, whichever he shall judge to be more expedient in the Lord. IX. The decrees of this Holy Congregation and the briefs of past years.

[*Latin ed. p. 168*]

168. The Decrees of 1834, 1836, 1839, 1847, and 1884 concerning the Trappist families are hereby abrogated, and are declared to have no further force, nor are they to be observed in any way. X. Nothing is innovated concerning the demons, since this Decree does not impede anything. And after a report was presented to the Most Holy Pope Leo XIII by the undersigned Prefect of the Sacred Congregation for the affairs of Bishops and Regulars, after a hearing was held on November 18, 1892, His Holiness approved,

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and after another hearing held on December 2 of the same year, confirmed this Decree in all its parts, ordered that it be observed, and commanded that Apostolic Letters in the form of a Brief be issued, notwithstanding anything to the contrary. Given in Rome, from the Sacred Congregation for the affairs of Bishops and Regulars, on the 8th day of the month of December, in the year 1892. S. CARD. VERGA, Prefect. IOS. M. ARCH. COES., Secretary.

LETTERS in the form of a Brief, by which the preceding decree is validated. LEO XIII, POPE. FOR PERPETUAL REMEMBRANCE. Roman Pontiffs, mindful of the pastoral office, have always directed their thoughts and efforts with great zeal to the religious families, from which so many and such great benefits arise for Christians, so that, when necessity demands, they may maintain and restore the regular discipline, from which, above all, the honor of their Orders proceeds. With this purpose in mind, turning our thoughts to the Congregation of Trappists, We summoned to Rome, according to the order We intimated to them, all Abbots, Priors, or other superiors, or delegates of all Observances of the Cistertians of the Trappist Order; and after hearing them most thoroughly and extensively...

[*Latin ed. p. 169*]

LETTERS: To the parts of the world, to this our most holy City, to the beloved Son, Camillus, Cardinal Deacon of the Holy Roman Church, Mazzetta, Prefect of the Congregation for the Oriental Churches, to the Venerable Brother Raphael, Cardinal of the Holy Roman Church, of Monaco, Bishop of Ostia and Velletri, Major Penitentiary, and Protector of the Trappists, in the month of October of the aforementioned year 1892, in the halls of the French Seminary of the Most Holy Heart of Mary, the general assembly of all the Observances was held. These assemblies demonstrated such devotion to this Apostolic See, such zeal for regular discipline, such a desire for the growth and prosperity of their institute, such harmony of spirit, and such maturity of counsel, that We ourselves did not hesitate to say, "This will be the most important chapter in the history of the Order," and, having followed with singular praise, "the outstanding examples of unity and generous self-sacrifice." Indeed, as several chapters were to be inserted into the Constitutions to be presented to the Congregation of Bishops and Regulars within the year, and to be examined along with these, there are also some matters, almost all of which have been approved by common calculation, concerning which it is necessary to provide now, so that the condition of the Institute will not be left suspended and uncertain; therefore, having carefully considered all the important aspects of the matter with Our Venerable Brothers, the Cardinals of the Holy Roman Church, and after consultations and deliberations with the Bishops and Regulars, we have judged it necessary to establish and decree the following. Therefore, all and each of those to

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whom these Letters are addressed, whom We embrace with particular benevolence, and whom, if they have incurred any sentences or penalties of excommunication or interdict, or any other ecclesiastical censures, We hereby, for the sole purpose of this matter, absolve and declare to be absolved, by Our own motion and with certain knowledge and mature deliberation, and by the fullness of Our Apostolic authority, We decree and command that the following be observed perpetually.

I. That the three Observances of Cistercians, namely Westmalle, Sevenfonten, and Mellereac, shall henceforth constitute one Order under the governance of a single Superior.

II. This Congregation shall exist autonomously under one Apostolic...

[*Latin ed. p. 170*]

170. Letters from the Seat [of the Order] are to be issued, preserving the rights of the local houses, according to the Apostolic Constitutions and the Institute. III. The name of the Order is: "The Order of the Cistercians Reformed of the Blessed Virgin Mary of Trapp," and the Superior General is to be called "The Abbot General of the Cistercians Reformed of the Blessed Virgin Mary of Trapp." IV. The Seat of the Abbot General, his Definitor, and the Procurator General shall be in Rome. The Abbey which shall henceforth be assigned the title of Abbot General will be the first in the entire Order in honor and authority. V. With the aforementioned, we, by our Apostolic authority, ratify and confirm the elections made in the General Chapter of the Abbot General, the Definitor, and the Procurator General. Let it be known that the General Abbot is Sebastian Wyart, Abbot of the Monastery of the Seven Fountains, in the diocese of Molinensis in France. The Definitor are: Malachias, Abbot of the Monastery of the Blessed Mary of Achei, in the diocese of Leodicensis in Belgium; John, Prior of the Monastery of the Three Fountains, in the Roman suburb; Bernard, Abbot of the Monastery of the Blessed Mary of Thimadeuc, in the diocese of Venetensis in France; Augustine, Subprior of the Monastery of Campo Arando, in the diocese of Gratianopolitana in France; Hubert, Subprior of the Monastery of Montis Olivarum, in the diocese of Argentinensis in Germany; and Augustine, of the Monastery of Montis Sancti Bernardi, in the diocese of Notthingamensis in England. Finally, let it be known that the Procurator General is the esteemed brother Augustine, who is also one of the Definitor. VI. The Abbot General, until the next General Chapter is held, shall retain the title of Abbot of the Seven Fountains, the governance of which he shall temporarily entrust to a Prior chosen by him and dependent upon him. VII. Furthermore, we decree that some of the most pious and talented members from all parts of the Order shall be proposed to individual Abbeys, and chosen by the Abbot General with the Definitor, to complete a course of sacred studies in this esteemed City, for the benefit of all the clerics of the Order. VIII. For the purpose of experimentation, and until the constitutions have

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been approved, it shall be within the power of each Abbot, or whatever name the Superior of the house may be called, to follow one or the other of two hours established by the General Chapter for this Holy Seat, whichever he judges to be more expedient in the Lord. IX. We permit the use of oil and butter for seasoning.

[*Latin ed. p. 171*]

LETTERS 171 X. Decrees of the Congregation of Bishops and Regular Canons, established to resolve matters and disputes, and Letters Apostolic annulled by the Fisherman in the years 1834, 1836, 1839, 1847, and 1884, concerning the Trappist families, are, by the force of these present Letters, abolished and declared to have no further validity, and we declare that all that is contained in these aforementioned Letters is of no effect. XI. Regarding demons, we introduce nothing new, insofar as these Letters do not impede anything. We grant and concede, decreeing that these present Letters shall always exist, and shall be, and shall be considered, in every way and at all times, fully valid and efficacious, and shall render null and void and ineffectual anything that, concerning these matters, should happen to be attempted by anyone, knowingly or unknowingly, with any authority whatsoever. Notwithstanding any Apostolic constitutions and ordinances, and all other contrary things. Given in Rome, at Saint Peter's, under the Fisherman's Seal, on the 17th of March, 1893. In the sixteenth year of Our Pontificate. S. CARD. VANNUTELLI. FROM THE HOLY CONGREGATION OF THE ROMAN COUNCIL, DEPUTATION. On the 6th of May, 1893. By summary prayer. SUMMARY OF THE MATTER. The Reverend Father, Director of the Holy Penitentiary, having been given Letters, recently requested from the Holy Congregation, wished to signify to the aforementioned Holy Tribunal whether two General Vicars, equally principal, can be named in Italy, in the same Diocese.

[*Latin ed. p. 172*]

172 In ROMA, a synoptic discussion has revealed a point of contention regarding the question proposed. Cardinal De Luca, although not explicitly addressing this issue, nevertheless states in *Be iurisd. disc.* 22 and 24, and in *Be benef.*, *disc.* 10, n. 7, that "in one diocese, only one Vicar General is appointed, to whom is given complete jurisdiction throughout the entire diocese." Furthermore, in his treatise *Be parochis*, *disc.* 45, n. 6, the same author writes more clearly: "It is necessary that there be only one Vicar General, and that in the same diocese, there should not be two Vicars General, etc." This also appears to be consistent with the decree of the Sacred Congregation of Bishops and Regulars in Almerien, on September 6, 1848, found in Bizzarri's *Collect*, in which, although it does not explicitly address the case of two Vicars General of equal standing, certain phrases can be found that seem to apply to the situation presented

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today. Indeed, the following is stated there: "that Bishops cannot, without an explicit grant from the Holy See, establish two Vicars General in the same diocese; nor can the Reverend [Bishop], from whom a Vicar General is retained in office, appoint a pro-Vicar General who would exercise jurisdiction alongside the Vicar." Furthermore, there are authors, such as Santi in *Praelect.*, book 1, title 28, n. 24, who teach that the practice of appointing multiple Vicars of equal standing, although not expressly prohibited by law, does not correspond to the intention of the law. Indeed, the esteemed Devoti openly suggests that the multiplicity of Vicars is contrary to the mind of the Council of TRENT, which always speaks of a single Vicar General. Nevertheless, on the contrary, Lucius Ferraris in his *Bibl. can.*, under the heading "Vic. gen.," asserts that "a bishop can also establish two Vicars General of equal standing, or in solidum, especially if the diocese is very large"; and to support his assertion, he cites several reputable authors, such as Reiffenstuel, Rebuffa, and Barbosa, etc. Of these, it suffices to cite only Reiffenstuel, who in book 1, title 28, *De off. Vic.*, states: "A bishop can also establish two Vicars General of equal standing, or in solidum, so that the progress of causes may be facilitated."

[*Latin ed. p. 173*]

ROME 173. Furthermore, it is proper to recall that in Note 43, in Volume I, of the Reiffenstuel edition, published in Paris in the year 1864, certain words were quoted from a letter written by the Most Reverend Congregation of the Council on July 14, 1858, to the Most Reverend Cardinal Gousset, of this tenor: "Cathedral chapters ought to appoint only one vicarious, and not two or more, as is permitted with vicars general." These last words would resolve the controversy, if they were to be applied in all cases, and not merely to the practice prevailing in France, as it might perhaps seem to be argued, considering the dignity that the Most Reverend Gousset held in France. Indeed, it is known that in ultramontane regions, and especially in France, bishops often appoint two vicars general; and this manner of acting has not been disapproved by the highest authority, but rather, in some way, approved. For, as Santi states in the aforementioned passage, "Apostolic letters are issued from Rome to the bishop and to the vicars established with him in spiritual matters." However, I do not know whether these vicars general, who are often appointed together by bishops in France and other regions, are truly equally principal. Indeed, generally, the authority of one of the vicars extends to matters of voluntary jurisdiction, while that of the other, who is called the official, extends to acts of contentious jurisdiction and legal affairs. Moreover, as is stated in *Devoti Inst.*, canon 1, title 3, section 9, which had previously been noted: "In Italy, one vicarious is usually appointed, to whom are entrusted the administration of spiritual affairs, and also contentious jurisdiction." Finally, it must be noted, according to the opinion of many, that in practice, the matter under discussion should

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be primarily defined by custom. "Today, it is often decided by jurists: where custom already prevails, the law allows for the appointment of more vicars; but where this custom does not exist, it is not permitted to introduce it." De Angelis, *Praelatus*, Book I, title 28, number 9. And Ferraris, in the aforementioned passage, believes that the Congregation of the Council has also come to this opinion: "The aforementioned conclusion is extended, so that a bishop may appoint more..."

[*Latin ed. p. 174*]

174 In ROMA, Vicars General are maintained according to custom. See Secret Consistory in Lanciano, March 24, 4599, and February 24, 1614. "Having considered these matters, it was asked what should be answered to the question posed to the Sacred Penitentiary. RESOLUTION. The Sacred Congregation, having considered the matter on May 6, 1893, decided to respond: Negatively. From WHICH WE GATHER: I. Only one Vicar General can be established in Italy, to whom the administration of spiritual affairs is entrusted, and simultaneously contentious jurisdiction. II. This confirms the opinion of the Canonists, which states that it is permissible for several Vicars General to be established in solidum where custom prevails; but it is not permitted where this custom no longer exists. III. The custom of having two Vicars General has never existed in Italy, which also seems contrary to the mind of Trident, since it speaks only of a single Vicar General. AUXIMANA REGARDING THE DEPUTIES OF THE SEMINARY. July 15, 1893. Through summary petitions. COMPENDIUM OF THE MATTER. On April 13 of the current year, the Bishop of AUXIMANA sent the following letter to the Most Reverend Congregation: "Since a deputy is to be chosen from the urban clergy for the economic administration of the Seminary, I have begun to doubt whether the Fathers of the Oratory, or the sons of St. Philip, can be co-opted among the electors and the elect. My opinion is contrary; however, I do not wish to impose this opinion on this clergy, who would gladly choose the best Father of the Oratory for this office. Therefore, I submit this doubt to the judgment of the Most Reverend Fathers."

[*Latin ed. p. 175*]

OSIMO 175. A Synopsis of Discussions. First of all, it must be remembered what the Council of Trent decreed regarding those appointed to seminaries, in chapter 18, session 23, concerning reforms. Indeed, among other things, it is prescribed that the Bishop should take care of the proper discipline of the seminary and the administration of temporal affairs, "with the counsel of two from the Chapter, one of whom is chosen by the Bishop, and the other by the Chapter itself, and also of two from the clergy of the city, of whom one is chosen in a similar manner by the Bishop, and the other by the clergy." Furthermore, since, at least according to the universally accepted

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understanding, the term "clergy" seems to refer only to secular priests, so that, according to the intention of the Fathers of Trent, religious are entirely excluded from the aforementioned office of appointed officials, it seems that in our case the entire question can be reduced to this: namely, whether the presbyters of the Oratory of Saint Philip Neri belong to the secular or rather to the regular clergy. This must be demonstrated both from the nature of the institution of these presbyters, and from the essence of the religious state. Therefore, from the constitution "Copiosus" of Gregory XIII, by which the Supreme Pontiff approved the Congregation of presbyter and clerics of the Oratory, it would seem quite clear that these presbyters are by no means to be considered among the religious, since their institute or Congregation does not observe all those things which truly constitute the substance and essence of the religious state. Indeed, the religious state is defined as: "a stable manner of living in common, approved by the Church, of the faithful striving for the perfection of Christian charity, with vows of perpetual obedience, poverty, and chastity." Therefore, in order to truly have a religious state, it requires: 1° stability, or a permanent, indeed perpetual, condition freely accepted by the individual through a free profession in a religious community, which free profession creates a true personal obligation; 2° the three perpetual vows of chastity, obedience, and poverty; 3°

[*Latin ed. p. 176*]

176 The approval of the church of AUXIMANA, which, by its judgment, recognizes the quality of the proposed rule. However, in its cited Constitution, the Pope does not speak in any way about the vows that the members of the Congregation of the Oratory are to relinquish, nor about their stability within the Congregation, nor, finally, about the examination or approval of the Congregation's rules. But, only according to the petitions of Philip Neri and his companions requesting the establishment of a Congregation of the Oratory in Rome, in the church of Saint Mary in Vallicella, the aforementioned Pope gave his approval with these words: "Highly commending the pious and laudable desire of Philip, the Prefect, and of the priests and clerics... we, with the authority of the Apostles, by these presents, perpetually erect and establish one Congregation of priests and secular clerics to be called the Oratory, without any prejudice." Furthermore, strength and clarity are added to this from the Statutes of the Congregation itself, which repeat their approval in the Constitution of Paul V. Indeed, in chapter IV, it is written: "Since our Congregation was instituted by divine inspiration by Saint Philip Neri, bound only by the mutual bond of charity, and not by any bonds of vows, oaths, or promises of this kind, and this has been the intention of him and of all the founders of the Congregation, always unanimous, and may it so persevere, it is decreed that if any of our members should think it right to depart from this

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state, and to bind the fathers and brothers with bonds of vows, oaths, or promises, even if these constitute the majority, it shall be free for them to enter religion, but the other part, although far fewer in number, shall have all the goods of the Congregation, wherever located, as long as they persevere in this state, and shall be obliged to give nothing to the others, nor to relinquish anything acquired, nor anything to be acquired." From such a state of affairs, it can be inferred that the members of the Congregation of the Oratory are not to be considered among the religious, since the Congregation lacks the fundamental elements from which the religious state truly arises, in its accepted and proper sense.

[*Latin ed. p. 177*]

Osimo, 177. Furthermore, it must not be omitted that Saint Philip Neri's followers have always been called by all, either presbyters or secular clergy, and not even once have they been called religious. This can also be said to be confirmed by the fact that, just like other members of the secular clergy, they are almost entirely subject to the local Bishop in the place where they reside. Nevertheless, more things must be considered that seem to suggest a contrary opinion. And first of all, it should be noted that, although strictly speaking, the presbyters of the Oratory cannot be called religious, in some respects they might be considered equivalent to religious, and consequently, according to the Tridentine decree, they should be excluded from the office of delegates of the Seminary. Indeed, they have their own superior, whom they choose according to the statutes of their Congregation and independently of the local Bishop, and they are truly bound to be subject to and obey him. Furthermore, the fathers, like religious, are generally called by that title; and, at least within certain limits, they enjoy privileges and are subject to a jurisdiction that is not entirely subject to the parish priest, just as the houses of the Regular clergy are not. "It is true," says the Bishop of Osimo, "that, strictly speaking, the followers of Saint Philip Neri are secular presbyters; however, when they are called 'fathers,' they are bound by an obligation to live under the obedience of their superior, and the exemptions and privileges, with which they enjoy within certain limits, like religious, suggest that they can be considered in some way as belonging to a religious order." From these last words, and perhaps from practice, it might seem that what I have said so far can be confirmed. But the most important argument, above all others, can be drawn from chapter VIII, paragraph 19, of the statutes of the Oratory. There it is written that the presbyters of the Oratory cannot in any way administer the affairs of colleges, congregations, and universities. "So that no one," it says there, "may be led away from the proper purpose of our Congregation, it is decreed that none of ours shall obligate themselves, or give themselves to hearing confessions, reforming morals, or administering the affairs of such institutions." The same is said of Seminaries, Colleges, Congregations,

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Societies, or other such institutions. *Acta, Tom. XXVI. fase. COCUI. 12*

[*Latin ed. p. 178*]

178 AUXIMANA: Concerning Universities, or matters pertaining to them in any way. Having these things before [us], the matter appeared to be entirely perplexing. With these considerations and observations brought to mind, the question arose as to what answer should be given by the Prelate from Auximana. RESOLUTION. The Sacred Congregation of the Council, after deliberation on July 15, 1893, decided to respond: Negatively (1). FROM THE SACRED CONGREGATION OF RITES, MURANA, or COMPSANA: Decree of Canonization of the Blessed Gerard Majella, a lay professed member of the Congregation of the Most Holy Redeemer. CONCERNING THE DOUBT: "Whether a Commission for the resumption of the Cause should be appointed, and for the purpose of what is being discussed?" In this case, Reverend Father Claudio Benedetti, a priest of the Congregation of the Most Holy Redeemer, and Postulator of the cause for the canonization of the aforementioned Blessed Gerard Majella, having presented the matter to the Most Reverend Lord Cardinal Miecislaus Ledochowski, also of the same cause, and in the assemblies of the Congregation of Sacred Rites convened at the Vatican, proposed the following doubt: "Whether a Commission for the resumption of the Cause should be appointed, and for the purpose of what is being discussed?" The Reverend Fathers, Prefects of the Sacred Rites, having carefully considered all things, and having heard the Reverend Father D. Augustine Caprara, S.F., Promoter of the Faith, deemed it necessary to respond: Affirmative, if it pleases the Most Holy [See]. June 27, 1893. These matters, having been reported by me, the undersigned Secretary, to the Most Holy Lord Pope Leo XIII, His Holiness, considering the judgment of the Sacred Congregation itself to be valid, deigned to sign the Commission for the resumption of the aforementioned Cause of the Blessed Gerard Majella on July 12 of the same year. & CAL CARD. ALOISI - MASELLAS. R. C. Pref. L. * S. VINCENTIUS NUSSI, Secretary. (1) Note: Let it be known to you that whatever has been collected in this work concerning the election of representatives for the Seminaries should be noted in Volume XXV, page 625, at the foot of the page.

[*Latin ed. p. 179*]

179 DECREE CONCERNING THE CATALOGUE OF FEASTS, which are to be observed as either primary or secondary. According to the decree of July 2nd of the recently concluded year, when a catalogue of feasts, to be observed as either primary or secondary, was proposed for approval to the undersigned Cardinal Prefect and Relator of the Congregation for Sacred Rites, in the Ordinary Assemblies, held at the Vatican, and after the voices and writings of the Reverend Father, Doctor Augustine Caprara,

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S.J., Promoter of the Faith, had been heard, the following was decided and ratified: AFFIRMATIVE; with the provision that, if it pleases the Most Holy [Father], the feast of the Dedication of the Basilica of the Most Holy Savior may be added to the universal calendar as a feast of the Double Major. The catalogue shall be as follows: (1) FEASTS IN THE PRIMARY CALENDAR OF THE UNIVERSAL RITE. I. Feasts of the First Class. The Nativity of the Lord. The Epiphany of the Lord. The Paschal Feast of the Resurrection. The Ascension of the Lord. Pentecost. The Feast of the Body of Christ. The Assumption of the Blessed Virgin Mary, and the Immaculate Conception of the Blessed Virgin Mary. The Nativity of Saint John the Baptist. The Feast of Saint Joseph, Spouse of the Blessed Virgin Mary. The Feast of the Holy Apostles Peter and Paul. The Feast of All Saints. The Dedication of the proper Church. The Patron, or Title, of the Church. The Principal Patron of the Region, or Diocese, or locality. §. II. Feasts of the Second Class. The Circumcision of the Lord. The Feast of the Most Holy Trinity. The Purification of the Blessed Virgin Mary. The Annunciation of the Blessed Virgin Mary. The Visitation of the Blessed Virgin Mary. The Nativity of the Blessed Virgin Mary. The Dedication of Saint Michael the Archangel. The Nativity of the Eleven Apostles. (1) The general decree concerning the precedence between primary and secondary feasts of the same rite is found in Volume XXVI, page 51.

[*Latin ed. p. 180*]

180 FROM THE SACRED RITUAL: Feasts of the Evangelists. The Feast of Saint Stephen, the First Martyr. The Feast of the Holy Innocents, Martyrs. The Feast of Saint Lawrence, Martyr. The Feast of Saint Anne, Mother of the Blessed Virgin Mary. The Feast of Saint Joachim, Father of the Blessed Virgin Mary. § III. Greater Double Feasts throughout the Year: The Transfiguration of the Lord. The Dedication of the Basilica of the Most Holy Savior. The Dedication of Saint Mary of the Snows. The Feast of the Holy Angels Custodes (in Puebla). The Dedication of the Basilicas of Saints Peter and Paul, Apostles. The Feast of Saint Barnabas. The Feast of Saint Benedict, Abbot. The Feast of Saint Dominic, Confessor. The Feast of Saint Francis, Confessor. The Feast of the Lesser Patron Saints. § IV. Other Feasts throughout the Year: The Nativity, or Quasi-Nativity, of each Saint. FOR CERTAIN PLACES: Saint Gabriel, Archangel. Saint Raphael, Archangel. The Nativity, or Quasi-Nativity, of each Saint. The Commemoration of the Saints whose bodies, or relics, are kept in the churches of the diocese. SECONDARY FEASTS IN THE UNIVERSAL CALENDAR. § I. Feasts of the First Class: The Most Sacred Heart of Jesus. § II. Feasts of the Second Class: The Feast of the Holy Name of Jesus. The Feast of the Discovery of the Holy Cross. The Feast of the Precious Blood of Our Lord Jesus Christ. The Solemnity of the Most Holy Rosary of the Blessed Virgin Mary. The Feast of the Patronage

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of Saint Joseph.

[*Latin ed. p. 181*]

181 FROM THE SACRED CONGREGATION OF RITUAL, § III. Major Double Feasts. Exaltation of the Holy Cross. Two feasts of the Seven Sorrows of the Blessed Virgin Mary. Commemoration of the Blessed Virgin Mary of Mount Carmel. Feast of the Holy Name of the Blessed Virgin Mary. Feast of the Mercy of the Blessed Virgin Mary. Presentation of the Blessed Virgin Mary. Apparition of Saint Michael the Archangel. Decollation of Saint John the Baptist. The Chair of Saint Peter the Apostle, both. Feast of the same [Saint Peter] at Chains. Conversion and Commemoration of Saint Paul the Apostle. Feast of Saint John before the Latin Gate. FOR CERTAIN PLACES. Offices of the Mysteries and Instruments of the Passion of Our Lord Jesus Christ. Of the Holy Family of Jesus, Mary, and Joseph. Of the Most Holy Heart of Mary. Of the Espousals, Maternity, Purity, and Patronage of the Blessed Virgin Mary. Of the Translation of the Blessed Virgin Mary's House. Of the Expectation of the Birth of the Blessed Virgin Mary. The Blessed Virgin Mary, Help of Christians. Of the Miracles of the Blessed Virgin Mary. Of the Apparition of the Immaculate Blessed Virgin Mary. Commemoration of all the Saints and Supreme Pontiffs. Also, other feasts, whether of the Lord, or of the Blessed Virgin Mary under some particular title, or of the Saints, including the day of their nativity, such as the Discovery of Bodies, Translation, Reception, Patronage, and similar things. On August 22, 1893. Later, a report on all of these was made by myself, the undersigned Cardinal Prefect, to His Holiness Pope Leo XIII, and His Holiness approved the double catalog, as mentioned above, and ordered it to be made public; elevating it to the rank of a major double feast, together with the feast of the Dedication of the Basilica of the Most Holy Savior, and also the feast of the Dedication of the Basilicas of Saints Peter and Paul the Apostles. On the 27th of the same month and year.

C. CARD. ALOISI-MASELLA

S. R. C. L. *

S. VINCENTIUS NUSSI

Secretary.
Prefect.

[*Latin ed. p. 182*]

DECREE GENERAL; a question concerning the feast of Saint Joseph, when it is transferred to the weekday following the Sunday of the Pas-

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sion, or to the fourth weekday after the Sunday in Albis. Whereas, according to the Decree of the City and the World (1), the feast of Saint Joseph, Confessor, Spouse of the Virgin Mother of God, and Patron of the entire Church, which had already been transferred to the weekday of the first class, was granted the privilege of being transferred to the following weekday, whenever it should fall on the Sunday of the Passion, and to the fourth weekday after the Sunday in Albis, when it is the nineteenth of March or the Sunday of Palms, or when it occurs on any of the weekdays of the Greater Week; and whereas, some liturgical experts proposed the following question to the Sacred Congregation of Rites: Whether the feast of Saint Joseph, Spouse of the Blessed Virgin, when transferred to the weekday following the Sunday of the Passion, or to the fourth weekday after the Sunday in Albis, as if to its proper place, should yield precedence in such cases, both when it occurs and when it coincides with feasts of the first class, even of the Patron, Title, and Dedication of the Church, on those same days? This question was proposed to the aforementioned Cardinal, Prefect of the Sacred Congregation, in the assembled College at the Vatican; and after deliberation, the following was decided: "The feast of Saint Joseph, in the case of being transferred, should yield to the norms of the Decree concerning the feast of the Most Holy Heart of Jesus, namely, that it should only yield to feasts of the first class, such as the Dedication and Titular feast of the Church, and to the feast of the Patron, when these are observed under a precept of double observance; in which cases, it should be restored on the immediately following day." The Sacred Congregation also made a similar decision concerning the transfer of the feasts of the Nativity of Saint John the Baptist and the Annunciation of the Blessed Virgin Mary: all previous decrees to the contrary are suppressed. June 27, 1893. Afterwards, a report on all of these matters was made to His Holiness, Pope Leo XIII, by the aforementioned Cardinal, Prefect of the Sacred Congregation; and His Holiness considered the decision of the Sacred Congregation to be valid in all respects, and confirmed it. July 2, in the same year.

L. CARD. ALOISI-MASELLA, S. R. C. Prefect.

S. VINCENTIUS (1)

Reported in Volume XXV, p. III.

NUSSI, Secretary.

[*Latin ed. p. 183*]

183 From the Decree of the Congregation for Indulgences, by which a hundred days' indulgence is granted to those who recite the antiphon of Saint Michael... Most Blessed Father, Most Blessed Father, IlP. Laprost, Superior of the Abbey of Pontigny, in the Diocese of Sens, in France, prostrated at the foot of the Holy Feet, implores the grace that you might grant a

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hundred days' indulgence, to be gained once a day by all the faithful of both sexes, who, with a contrite heart and with devotion, recite the antiphon: "Holy Michael, Archangel, defend us in battle, that we may not perish in the terrible judgment." His Holiness Pope Leo XIII, in an audience held on August 19, 1893, before the undersigned Secretary of the Sacred Congregation for Indulgences and Sacred Relics, benignly granted the requested grace. This decree is valid forever, without any need for a brief, notwithstanding any contrary provisions. Given in Rome, from the Secretariat of the aforementioned Sacred Congregation, on August 19, 1893. ALOYSIUS CARDINAL SERAFINI, Prefect. L. ALEXANDER, Archbishop of Nicopolis, Secretary.

[*Latin ed. p. 184*]

184 APPENDIX II EXHIBENSACTA SEDIS APOSTOLICAE; AUT QUAE TEMPESTIVO, QUAE AUT IAMDIU EXARATA SUNT, LATUERUNT EPHEMERIDUM MODERATOREM. S. C. S. Officii 16 Iulii 1866 — Vic. Ap. Natai. Quaestiones referentes ad matrimonia infidelium cum Christianis. I. Inquiretur utrum dispensatio a vinculo matrimonii, quae ab Ecclesia conceditur (ponendis conditionibus), post baptismum unius partis, possit applicari in casu in quo, post baptismum susceptum ab una parte, quae partes non cessarunt habere coniunctionem, et consummarunt matrimonium sicut ante baptismum? II. Matrimonium valide contractum ante baptismum inter duos infideles potestne dissolvi quando, post baptismum unius, pars infidelis promittit quidem se non inquietare mulierem baptizatam in professione christianitatis, sed ille recusat dimittere alias uxores illegitimas, vel non vult promittere se servaturum leges Evangelii circa monogamiam? III. In casu praecedenti, si matrimonium dissolvi potest, mulier baptizata teneturne recurrere ad dispensationem pro dissolutione matrimonii? IV. Mulier baptizata potestne recurrere ad dispensationem quando praenoscit quod, facta dissolutione matrimonii, educatio prolis susceptae penitus erit in potestate viri eius infidelis? V. Si dispensatio dari non potest, mulier legitima quae fit christiana, post conversionem potestne cohabitare cum marito infideli qui simul in eadem domo retinet uxores alias illegitimas? VI. Puella christiana (obtenta dispensatione disparitatis cultus) potestne legitime contrahere matrimonium cum infideli qui non promittit se a polygamia abstinere in futurum? VII. Bertha adhuc infidelis contrahit matrimonium cum infideli statim ac pervenit ad annos pubertatis, et post duos annos relinquit virum suum, nulla suscepta prole, et ambo currunt ad alias nuptias, imo vir accipit plurimas uxores et fit polygamus. Sed nunc mulier aetate provecta, audito missionario, vult baptizari; potestne illa mulier dispensari a vinculo

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matrimonii contracti cum primo marito, non postulato?

[*Latin ed. p. 185*]

APPENDIX II. 185 With his consent, and thus remain with the second husband with whom she has borne children? VIII. Among some unbelievers, a detestable custom prevails according to which, after committing adultery with the wife of another, the man provides a remedy for the adulterous wife, the effect of which will be to bring about the death of the legitimate husband, since he will subsequently have relations with his own wife. Therefore, it is asked whether the legitimate husband who does not wish to live with his wife after she has committed adultery, if he converts to the faith, can obtain a dispensation from the marriage bond he contracted in infidelity, and take another wife, even if the unfaithful adulterous wife herself wishes to be baptized? R. The Most Eminent and Reverend Fathers answered the individual questions in the following manner, with these preliminary remarks: First: The aforementioned questions must be understood in relation to the privilege granted by Christ the Lord in favor of the faith, and promulgated by the Apostle Paul in 1 Corinthians VII, 12 and following verses. Second: This divine privilege consists in the fact that, if a legitimate marriage exists, contracted and consummated in infidelity, and if one of the spouses embraces the Christian faith, while the other remains obstinate in his infidelity, refusing to live with the converted spouse, or if he is willing to live with him, but not without offending the Creator, that is, not without the danger of corrupting the faithful spouse, or not without blaspheming the Holy Name of Christ, and despising the Christian religion: then it is permissible for the converted spouse to pass on to other vows, after the unfaithful spouse has been warned, either absolutely refusing to live with him, or showing that he intends to live with him, but not without offending the Creator. Third: According to the same divine privilege, the spouse who has been converted to the faith is not, at the very moment of his conversion, considered released from the marriage bond with the unfaithful spouse who still survives, but rather, if the unfaithful spouse refuses [to live with him], he acquires the right to pass on to other marriages, provided that the faithful spouse [remains faithful]. Furthermore, the bond of marriage is only dissolved when the converted spouse proceeds to other marriages with effect. Hence: Regarding I. If it should happen that, while two unbelievers are married, one of the spouses is converted to the faith and receives baptism, and lives peacefully with the unbelieving spouse without offending the Creator, and afterwards the unbeliever (who, however, must give a reasonable reason for leaving) not only refuses to accept the conversion, but also, having broken the peace of the peaceful cohabitation, or out of hatred of religion, leaves, or refuses to live together without offending the Creator, or attempts to lead the faithful spouse to mortal sin, or to infidelity,

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then it is permissible for the faithful spouse to pass on to other vows.

[*Latin ed. p. 186*]

186 APPENDIX II. Regarding II. If the matter concerns a pagan wife of a pagan, who is concubinating, and she is converted, then, after due admonition, if she refuses to convert or to cohabit without offending the Creator, and therefore to cease from concubinage (which certainly cannot be tolerated without offending the Creator), she may avail herself of the privilege granted in favor of the faith. Regarding III. When a disloyal spouse, after being admonished, either absolutely refuses to cohabit with the spouse who has been converted to the faith, or shows an intention to cohabit with him, but not without offending the Creator, or without a perpetual desire to abstain from concubinage, then the converted spouse, after a prior ecclesiastical judgment, should be separated from the disloyal spouse, and may, if she wishes, avail herself of the privilege or divine dispensation granted in favor of the faith, and thus proceed to other vows with a faithful person. Regarding IV. If it is absolutely impossible for the converted spouse to remove the children from the power of the other spouse, who remains obstinate in infidelity, and it is not lawful, after a prior legal and formal admonition, to cohabit with him, either because he does not want to, or because he does not want to cohabit without offending the Creator, after a prior ecclesiastical judgment, it will be proper to proceed to other vows; however, the obligation remains, by which she is always bound to care for the Catholic education of the children, if in any way she can. Regarding V. As provided in the foregoing. Regarding VI. Negatively; and in similar cases, missionaries who possess, by Apostolic grant, the faculty of dispensing in matters of disparity of cult, should take care not to grant a dispensation unless the danger of polygamy is removed. Regarding VII. When the matter concerns, as is supposed, a legitimate marriage contracted in infidelity, the woman should be completely and effectively separated from the second husband; and if, for very serious reasons, and due to real impotence, she cannot be separated in terms of habitation, she should at least be separated in terms of bed and board, and should have no further contact or carnal intercourse with the same husband. Furthermore, she should be instructed, and especially informed that, having received baptism, she is not dispensed from the obligation she has to return to her first husband; and to the extent that, after due instruction, it is clear that she is moved to receive baptism for a true reason of religion, she should be admitted to baptism immediately, and after receiving it, she should be completely questioned by the first husband, and asked whether he wishes to convert, or whether he is willing to live with her without offending the Creator; and, if he refuses, the reason for his unwillingness should be ascertained, and the Reverend Provincial Vicar should inform the Holy Congregation of all that has resulted. But if, at least in summary and ex-

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trajudicial fashion, it is established that the spouse left in infidelity is so absent that he cannot be legitimately admonished...

[*Latin ed. p. 187*]

APPENDIX II. 187. He cannot, or has not, within the time specified in the warning, signified his will; or, if the unfaithful spouse can indeed approach, but cannot be admonished concerning the already completed Christian marriage without a clear danger of inflicting serious harm to him or to Christians, and if such harm can be removed with necessary prudence and caution, then the Apostolic Vicar will renounce all these things, expressly stating the names [of the parties involved], and setting forth the most serious reasons for obtaining a dispensation regarding the impediment of disparity of cult, if the alleged second spouse still persists in infidelity, and relating all the circumstances, persons, and facts involved, so that a safe course of action may be followed in a matter of such grave importance. Furthermore, marriage contracted even in infidelity is, by its very nature, indissoluble, and it can only be dissolved concerning the bond by the virtue of the privilege granted by Christ the Lord in favor of the faith, and promulgated by the Apostle Paul, when one of the spouses embraces the Christian faith, and the other not only refuses to embrace the faith, but also does not wish to live peacefully with the converted spouse without offending the Creator; therefore, there is no place for dissolving the bond of a marriage legitimately contracted in infidelity, when both spouses have received baptism, or intend to receive it. — Most Holy [Father] confirmed. S. C. S. Office, June 20, 1866. - Apostolic Vicar to the Gallis. Requirements concerning the marriages of polygamists. 1. Whether it can be granted to a polygamist who desires to convert to the faith, a free choice among the several wives he has, whom he has all led to the marriage ceremony with the same solemnities; or whether he is obligated to retain the first, who is usually older in age and less beloved by him. 2. To the extent that a polygamist is obligated to retain the first wife, dismissing the others; and yet he does not wish to fulfill this obligation, whether, for this reason alone, baptism should be absolutely denied to him, even in the case in which his conversion could reasonably be expected to lead to the conversion of many others. 3. Whether, at least, there can be a place for the ancient ecclesiastical discipline of admitting these polygamists into the number of the catechumens, so that they may have time to consider, and be received at the point of death when all difficulties have ceased. 4. Whether any of the wives of a polygamist who are obstinate in their infidelity, and who desire to be baptized, can enjoy the privilege which the Apostle...

[*Latin ed. p. 188*]

188 APPENDIX II. The Apostle Paul grants to a faithful woman the right to remain with an unbelieving husband, provided that he consents to a

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peaceful cohabitation; whether, however, this privilege pertains only to the first wife, excluding all others. 5. To what extent is it possible for a peaceful cohabitation to exist with a husband who is obstinate in his infidelity, and must a missionary demand separation, even if there is a danger of death, and the woman has not yet been baptized? 6. To what extent does the privilege of Paul the Apostle apply only to the first wife, excluding all others, namely, the subsequent wives? If any of these subsequent wives desires to become a Christian, can she be baptized while remaining passively in her condition of wife, or rather, of true concubine, and preferring the disposition of yielding only to violence, but never seeking marital relations; or must separation be absolutely demanded, even with a probable danger of death?

R. It is a well-established principle that a marriage contracted by a man with a woman during the time of infidelity, while another woman with whom he had previously been joined in marriage is still living, is null and void, both according to divine and natural law. Therefore, when it is clear that the unfaithful man intended to enter into a true marriage with the first woman he received, and that no impediment of natural law opposed this marriage, that first woman must be considered the just and legitimate wife; and all others to whom the man, after the death of the first, subsequently married, are considered adulteresses and concubines. Therefore, the polygamist must retain the first wife, who is the only just and legitimate wife; and he must dismiss the others as adulteresses and concubines. And this obligation, arising from divine and natural law, is not relaxed, even by the conversion of the polygamist, but rather is made more urgent; so that in no way is it permissible to baptize a polygamist who does not show himself to be fully prepared and willing to fulfill this obligation. In only one case does this obligation cease, and it becomes permissible for a polygamist converted to the Christian religion to dissolve the marital bond with the first, legitimate wife, and to contract marriage with another woman, whom he prefers, namely, when there may be a place for the privilege granted by Christ the Lord in favor of faith, and promulgated by Paul the Apostle... This is the meaning of Paul's privilege: that a marriage entered into and consummated by unbelievers while in a state of infidelity is dissolved when one of the spouses is converted to the faith, and the other neither wishes to be converted, nor consents to live together without offense to the Creator. Therefore, it is clear that 1. this privilege pertains only to the true and legitimate husband with respect to the true and legitimate wife, and vice versa; it is also clear that 2. the converted spouse cannot enjoy this privilege unless after having received baptism and after having duly questioned the other spouse about the evangelical truth.

[*Latin ed. p. 189*]

APPENDIX II. Concerning the possibility of a peaceful coexistence, or of

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a dispensation for cohabitation: It is clear that this privilege cannot apply if both legitimate spouses are converted to the faith. Furthermore, two points must be noted concerning this matter. Firstly, it has been granted by the Apostolic See to polygamists who embrace the Christian religion together with one of their concubines, that they should only be obliged to inquire [about the validity of the marriage] concerning the conversion. Secondly, it is possible, by the authority of the same Apostolic See, to grant a dispensation to any polygamist who is converted, so that both may omit the inquiry, whenever this cannot be done in practice, or if it were done, it would be considered of no benefit, according to what is stated by Pope Benedict XIV in book 13, chapter 2, concerning the diocesan synod. From the doctrines declared thus far, the answer to the proposed questions clearly emerges. Indeed, in the first question, several women are mentioned who are kept by the polygamist, and all are said to have been united to him with the same solemnities. Therefore, speaking regularly, only the first of these is the legitimate wife, and the polygamist must certainly retain her after his conversion, if she also wishes to be converted, or at least to live with him peacefully. If she does not wish to be converted, then the man can certainly make use of the Pauline privilege, and choose among the others the one he prefers, provided that she also becomes faithful and renews her consent with words in the present. But in the second case presented in the question, namely, that the man should retain the former wife, and yet stubbornly refuses to do so, he must be entirely excluded from baptism, which he falsely claims to desire with a sincere heart, since the will to persist in sin cannot be reconciled with a sincere desire for conversion and baptism. It is absurd to inquire whether he can be baptized at least in anticipation of the conversion of many others, when the Apostle Paul, inspired by the Holy Spirit, warns us not to do evil that good may come. Therefore, this persistent polygamist should not be received among the catechumens (which is what the third question asks), for this would bring disgrace to the Christian name, formerly common to the baptized and the catechumens, and would contradict the most holy discipline of the Church, which has always severely condemned and detested the abuse of using baptism. However, missionaries should not cease to instruct these poor people with all patience and doctrine, and to arouse them with the greatest possible effectiveness to perfect conversion; nor is it forbidden that they themselves may be baptized at the point of death, if they are truly disposed. The fourth question arises from a false interpretation of the Pauline privilege, which, in fact, grants the power to dissolve, not to preserve, the bonds of marriage, and which does not apply to any of the polygamist's wives, but only to the

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one legitimate wife, who is the first.

[*Latin ed. p. 190*]

490 APPENDIX

It often happens that [concubines] are in this state. But those who are living in a shameful concubinage must, without fail, even at the risk of death, break off the adulterous relationship. Regarding the fifth question, particular cases must be carefully examined, and the disposition of the heart of the woman seeking baptism must be investigated. If any serious difficulty arises, recourse must be had to the Holy See. Concubines cannot be regularly admitted to baptism, as is requested in the sixth question, unless they have first separated themselves from polygamy; this is explained more fully and clearly in the instruction of March 28, 1860.

S. C. S. Officii, November 22, 1871 – Vic. Ap. Siam. Doubts regarding the marriages of pagans with Christians. Titius, a pagan, took a first wife, Lola, also a pagan; after a few years, this Lola left her husband and lived with Brutus, another pagan. Titius then took another wife, Totilla, also a pagan, and lived peacefully with her for many years and had children with her. Now, Titius and Totilla have come to embrace the Christian faith. However, Lola, Titius' first wife, is now in servitude, having been sold by her second husband, Brutus. Titius asked her if she would be willing to return to him and convert. Lola replied that she would gladly return and would also embrace the faith, provided that her first husband freed her from servitude from her second husband. Now, there are difficulties: 1. Titius is completely poor and cannot free her from servitude. 2. Furthermore, Lola cannot return to Titius, because her second husband does not want to let her go. Lola lived peacefully with Brutus for three years, without the first husband objecting; therefore, according to civil law, she became the legitimate wife of Brutus, and Titius no longer has any right over her. 3. Titius does not want to abandon Totilla, because he has remained faithful to her, and because, having been baptized with his second wife and children, and with their renewed consent, he has now lived with her. Can he remain joined to her in this way?

R. Regarding the matrimonial case in question, the answer is as follows: According to what has been explained, in the case in question, as long as the first wife remains in infidelity, it is permissible for Titius to be joined in a legitimate marriage with the second woman.

First Question: Can missionaries make use of the power granted by the Most Holy Pope through the Brief that begins: "Romani Pontificis..." in its fullest extent?

Answer: The Brief of Pope Pius V concerns a case in which the first

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legitimate wife is not known, and it is very difficult to find her; in...

[*Latin ed. p. 191*]

APPENDIX II. 191. It is necessary to observe the rule prescribed by his successor, Gregory XIII, regarding its true use, namely, that before a neophyte is joined in marriage to another woman who was baptized at the same time, it must be established, through a summary and extrajudicial process, that it is extremely difficult to find the first wife.

Question: Is it permissible to grant a dispensation from disparity of cult when a dispensation regarding inquiry has been granted previously, or when the inquiry has been made in vain?

Answer: Negatively. And let the Decree of the feast of the Fourth [Hour] of August 29, 1866, of the following tenor be given: The Apostolic [See], in cases concerning which the Reverend Fathers are deliberating, cannot grant a dispensation from disparity of cult, and therefore the missionaries deputed for this purpose, according to Formula III, cannot. And with regard to marriages, if any have already been contracted with such a dispensation, let those unions remain, and the spouses shall remain in good faith. Regarding the future, however, the Apostolic Vicar himself shall consider particular cases, after all the circumstances of each case have been presented.

Sacred Congregation of the Holy Office - C.G. July 7, 1670 - Apostolic Vicar of Tunk - Doubts regarding the publication of the Tametsi Decree.

1. Should the publication of the Tridentine Decrees concerning marriage be postponed in places where a new conversion has been made, until the faithful are more firmly established in the faith, and in places to which the Fathers [missionaries] cannot easily reach, either because of the distance of the place, or because the Fathers have been exiled from that place by the gentile lord of that place?

2. In places in which the Tridentine Decree concerning marriage has been published, can the faithful, in turn, contract marriage without the presence of a parish priest, when, either because of great distance or because of exile, the parish priest cannot be present in those places, and whether those unions are valid and are made without sin?

3. Can someone who has heard the Council's Decree concerning marriage in his own parish, contract marriage in other places, in which the Council's Decree has not been published, without a parish priest?

4. Is it necessary, in order that the Council's Decree may truly be said to have been published, that it be published in all the churches of the vicariates, which are very close to each other, when some vicariates, for the convenience of the inhabitants, have two churches?

5. When in a certain territory there are few churches, although many are to be erected in the future, is it to be considered that, after the Council's De-

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cree has been published in those few churches, it is considered published throughout the entire territory, or rather...?

[*Latin ed. p. 192*]

192 APPENDIX II. In any village where a church is to be erected in the future, after the Christians have been gathered in a suitable house, as is customary for the celebration of the Mass, it must be publicly announced: Can marriages be contracted there without a parish priest and witnesses? R. To question 1: It is permissible to extend the period of publication of the Decree of the Council of Trent. To question 2: Missionaries must observe the Decree of the Holy Congregation of the Council to the Bishop of Tricarico concerning the marriages of the Dutch (1). To question 3: It is permissible, according to the Decree of the same Holy Congregation, provided that it is not done fraudulently. To question 4: It is necessary to have the publication in each and every parish, according to the Decree of the Council of Trent, session 24, chapter 1, concerning the reform of marriage. To question 5: The publication already made is sufficient, unless new people and inhabitants arrive, and in their case, new parishes must be established. (1) Holy Congregation of the Council, January 18, 1663 (to the Bishop of Tricarico). 1. Where the Decree of the Council of Trent, chapter 1, session 24, concerning the reform of marriage, has not been published in a parish, marriages contracted without observing the form prescribed by the Council are valid. 2. The publication is presumed to have taken place where this Decree has been observed in the parish for some time, as if it were a Decree of the Council. 3. Even heretics, where the Decree of the aforementioned chapter 1 has been published, are bound to observe this form, and therefore, even their marriages, even if contracted before a heretical minister or a local magistrate, are valid and not null, provided the form of the Council is observed. 4. Even if it is established that the Decree of the Council has been published, or has been observed in the parish for some time, but the parish church, for example, is vacant, and lacks its own parish priest, and the cathedral also lacks its Bishop and chapter, who have the authority from the Council to delegate another priest for this purpose, and no one else is there to take the place of the parish priest or the Bishop, the marriage is valid, provided that the presence of the parish priest is observed in it insofar as it is possible, namely, by using at least two witnesses. 5. If the parish priest and the Bishop are indeed present, but, without a designated vicar, both are hidden by fear of heretics, so that they are truly unknown, or are absent for the same fear, and there is no safe access to either of them, the marriage contracted without the form is valid, provided, as stated, that two witnesses are used.

[*Latin ed. p. 193*]

•193 ENCYCLICAL LETTER of the Most Holy Pope Leo XIII on the

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Marian Rosary. The blessed year, which has happily brought us to the fiftieth anniversary of our episcopal consecration, has been made even more delightful by the fact that all, through the unity of the Catholic nations, have been our companions, sharing in the most beautiful expression of faith and love. We acknowledge and proclaim, with new gratitude, the provident counsel of God, which is supremely beneficial to us and to the Church, and we offer praise and salutations to the most august Mother, the best intercessor with God, for this very benefit. Indeed, this outstanding devotion, which we have felt so strongly for so many years, shines more brightly each day before our eyes, sweetly affecting the soul and confirming faith, not of human origin. The voice of the Heavenly Queen herself is heard, urging us, in these most difficult times for the Church, to assist in the common endeavors for the salvation of souls, and also to encourage the cultivation of piety and all virtue in the Christian people. We have already striven to respond to these desires on many occasions, according to our own judgment and that of the Holy See. And the fruits of these exhortations, under her guidance, are such that we must remember, namely, the great increase that has been brought to the sacred devotion of the Rosary; this has been further enhanced by the increase in pious societies, which have been established, and by learned and appropriate writings, which have been published and disseminated, adorned with the most noble ornaments of eloquence. Now, as if we were receiving the voice of the most devoted Mother herself, urging us: "Pray, do not cease, I desire again to speak to you about the Marian Rosary." Venerable Brothers, the month of October is approaching, a month which we have decreed to be devoted to the Rosary, and in which we encourage the most sacred devotion to it with special prayers and observances. However, we must add that our intention is not merely to offer praise and prayers, or to provide encouragement for a more devout observance of this holy practice; rather, we wish to point out some of the most excellent benefits that can be derived from it, benefits that are most fitting for the times and for people. For it has become clear to us that, if the devotion to the Rosary is properly cultivated, it will produce its own inherent virtue, its own benefits, and its own acts.

[*Latin ed. p. 194*]

194 ENCYCLICAL LETTER: It is fitting, not only for individuals, but for the entire republic, that great benefits should be conferred. No one should hesitate, as We, by the supreme office of the Apostleship, have diligently sought and are most eager to confer, provided that God so wills. For We have often warned those who hold power, not to enact laws, nor to act, except according to the most perfect will of God; and We exhort those citizens who, whether by talent, merit, nobility, or fortune, excel others, to, with counsel and effort, defend and promote the greatest interests of the state. — But alas, there are many things by which civil society, public

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order, and the pursuit of just and honest conduct among the people are undermined and led astray. Indeed, We see three things above all others as most harmful to the common good: the aversion to a modest life and active virtue; the horror of suffering; and the forgetfulness of future hopes that we cherish. We lament that those who, by the very light of nature and for the benefit of human society, should vehemently strive to uphold duties and virtues, and to adorn every kind of life with moderation and propriety, are instead neglecting these things. From this arises the disregard for due obedience in domestic life, the rejection of discipline, except when it is pleasurable and gentle. From this, artisans and those engaged in the arts abandon their labors, and are not content with their lot, but seek a certain, heedless equality of goods; and similarly, the studies of many are abandoned, as they are drawn away by the rumors and distractions of the cities. From this, there is no balance among the orders of society; all things are disturbed, and the minds of men are tormented by envy and strife; justice is openly trampled upon; and finally, those who are false in hope attempt to undermine public order and peace, while those who seek to protect it are thwarted. — Against these things, let devotion to the Rosary be sought, which, along with a certain order of prayers, consists of the pious contemplation of the mysteries of Christ the Savior and His Mother. Indeed, the mysteries of the Gospel are carefully and publicly explained, so that, as it were, through images and representations of virtues, they may be instilled in the minds of men: and everyone may see how ample and how easy is the opportunity offered for composing a life of honor, a wealth of documents attracting the minds with wondrous sweetness. — Consider the house of Nazareth, that earthly dwelling of the divine family. How much of daily custom...

[*Latin ed. p. 195*]

ENCYCLICAL LETTER 495: A model! What a perfect example of the domestic society! There, simplicity of manners and purity of morals prevail; there is perpetual harmony of souls; there is no disturbance of order; there is mutual respect; and finally, there is love, not that false and deceitful love, but that which, through the constant exercise of duties, is truly vigorous, and which captivates even the eyes of those who behold it. There, indeed, is devoted study to providing for the sustenance and well-being of the family; and this is done with diligence, so that those who, content with little, may rather strive to need less, than to possess more. Above all these things, there is profound peace of mind, and the joy of a virtuous family, which are never absent, and which accompany the consciousness of well-done deeds. – What examples of virtues, modesty, forgiveness, tolerance of labor, and other acts of benevolence, are found in daily life! And as soon as these are conceived in the minds, they will gradually penetrate deeply into them, and a change for the better will occur in their manners and customs.

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Then, each will perform their duties, not reluctantly or with annoyance, but rather with pleasure and delight; and, with a certain joy, the conscience of duty will be strengthened. All parts of the family will flourish; the domestic society will be a source of love and delight; and everyone will gain more from sincere respect and charity. These virtues, when transmitted from the individual to the family, and then to the community, and finally to the entire people, will regulate life; and the benefits that will result for the republic are evident. Another, and most harmful, thing, which we have often lamented, and which increasingly infects souls, is the refusal to accept suffering, the harsh rejection of adversity. For many people do not possess that true freedom of spirit, which should be the reward of those who perform their duties, even in the face of dangers and hardships; but rather, they seek a false perfection in life, in which, with every unpleasant thing suppressed, the sum of the pleasures of this life is accumulated. Moreover, from this excessive and unrestrained desire for a happy life, all things are corrupted; and, if these things do not completely perish, they are at least weakened, so that they may succumb miserably to the evils of life. – In this very difference, much help for strengthening the spirit (and such an example is of great authority) can be expected from the most holy Rosary; if the mysteries, through which we are led, are contemplated with devotion, even by the youngest children.

[*Latin ed. p. 196*]

196. These things, and thereafter, with silent sweetness and contemplation, are poured forth. Through them, we see Christ, the Author and Finisher of our Faith, beginning to do and teach; so that, having taught us about the perpetual suffering and torments, we may seek His example in them, and thus, whatever hardships they endure, they may willingly bear them, perceiving that He Himself bore them with great fortitude. We see Him, indeed, perfected, even to the point of shedding blood from every member, as if in sweat; we see Him bound with chains, like a robber; we see Him undergoing the judgment of the most wicked; we see Him assaulted with grievous insults, false accusations. We see Him scourged, crowned with thorns, nailed to the cross; we see Him treated with indignity, a life that should have lasted long, worthy to perish amidst the clamor of the crowd. To these things, we consider the most holy Mother also to have undergone a suffering, whose soul the sword of sorrow did not merely touch, but pierced, so that she might be called the Mother of Sorrows.

Such is the example that, when frequently contemplated, will surely inflame the soul to imitate Him! Let the earth be cursed for him, let it bring forth thorns and thistles, let his mind be overwhelmed with sorrows, let his body be afflicted with diseases; there will be no human envy, nor the wrath of demons, no public or private calamity, no misfortune, that he will not overcome through patience. Hence, it is rightly said: "To do

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and to suffer bravely is the mark of a Christian"; for a Christian cannot, by any means, follow the patient Christ without merit. By patience, we mean not a callous hardening of the spirit towards pain, as was sometimes the case with the ancient philosophers; but rather, that which, transferring the example of Him who, having set His face towards suffering, endured the cross with joy, despised shame, and, exposed to the opportune grace of help, perseveres in all hardships, and even embraces them, and renders suffering profitable, whatever it may be. This is the hallmark of a Catholic, and indeed, this doctrine has many outstanding disciples throughout the world, men and women of every order, who, following in the footsteps of our Lord Jesus Christ, have endured all injuries and harshness with virtue and religion, taking up, more than the words themselves, that saying of Thomas: "Thomas therefore, who is called Didymus, said to his fellow disciples: Let us also go, that we may die with him."

These remarkable deeds, multiplied and shining forth, under the protection of the state, the Church, and virtue, increase and glorify!

(1) Hebrews 12:2.

(2) John 11:16.

[*Latin ed. p. 197*]

ENCYCLICAL LETTER 197. The third malady, for which a remedy must be sought, is most evident in men of our age. For men, in these times, if indeed they are concerned with earthly matters, are either more vicious or, at the very least, are scarcely concerned with heavenly things; even the pagans taught us that this life is a lodging, not a home, a place to stop for a while, not to dwell in. Now, even those men who are truly men, and who, although guided by Christian law, pursue the pleasures of the present, often do so in such a way that they not only neglect the hope of eternal blessedness, but even wish to extinguish it completely, as if it were a disgrace; as Paul says: "For, we have not here a lasting city: but we seek one that is to come." (Heb 13:14) When we investigate the causes of this, the first thing that occurs to us is that many believe that concern for future things undermines earthly love and the prosperity of the earthly republic. But there is nothing more hateful, nothing more foolish. For there is no nature of things so perverse, by which men justify themselves in avoiding the present good, when Christ Himself commanded that the Kingdom of God should be sought first, although not to the exclusion of all other things. For the enjoyment of present things, and the delights that come from them, are either aids to virtue, or means of increasing or rewarding it; likewise, the splendor and order of an earthly city, magnificently illustrated by the association of mortals, imitate the splendor and order of the heavenly city; there is nothing that should disgrace those who share in reason, nothing that should be opposed to divine plans. For God is the author of both nature and grace; they do not serve each other, nor do they contend, but they

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are united by a certain bond, so that, as if guided by two leaders, we may more easily attain that immortal blessedness, which is the ultimate goal of mortal men. But those men who are devoted to pleasure, who love only themselves, and who humbly abandon all their thoughts to worldly things, so that they may be lifted up higher, rather than seeking eternal things in the good things they enjoy, completely lose sight of eternity, falling into the most disgraceful condition. For no punishment could be more grievous than that which the divine Providence inflicts upon a man, when it allows him, seduced by the pleasures of the world, to forget the eternal good, and to devote his entire life to worldly pursuits. How great, then, is the danger that he runs who, neglecting the Rosary, which presents to him the glory of Mary...

[*Latin ed. p. 198*]

198 ENCYCLICAL LETTER: It is necessary to repeat frequently what has been said, so that it may remain fresh in the memory. For these are mysteries in which the clearest light is presented to Christian minds, so that they may contemplate the good things which, although they escape the sight of the eyes, are certainly prepared by God for those who love Him. We are taught that death does not destroy him who loves and seeks God, but is a migration and a change of life. We are taught that all things tend towards heaven; and when we see Christ waiting for us, we remember His blessed promise: "In my Father's house there are many mansions. If not, I would have told you." We are taught that there will be a time when God will wipe away every tear from our eyes, and there shall be no more sorrow, nor pain, nor mourning; but that we shall always be with the Lord, like unto God, because we shall see Him as He is; and we, citizens of the great kingdom and of the most blessed communion of the Queen and Mother, shall be filled with the fullness of His joy.

Therefore, let those who consider these things with ardor remember also what the most holy man said: "How great is the weight of our earthly suffering, when I look up to heaven!" But let this be a consolation, that the momentary and light tribulation of our present life works out an eternal glory in us. For this is the reason for the present time, that the earthly city may be joined to the heavenly; by this, strong souls and noble minds are formed. As the number of citizens increases, so also does the dignity and amplitude of the city; and the more that is true, good, and beautiful flourishes according to the norm of the light, which is the highest principle and the perennial source of all truth, goodness, and beauty.

Let all see that, as we have stated from the beginning, the virtue of the most holy Rosary is fruitful in benefits, and how wonderfully it can heal the evils of the times and prevent the gravest dangers to the city.

This very virtue, as is easily understood, will be more abundantly perceived by those who are enrolled in the sacred Rosary Sodality, who, with

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a special and fraternal bond, dedicate themselves to the most holy Virgin above all others. For this Sodality, approved by the authority of the Roman Pontiffs, and endowed with special privileges and indulgences, is governed with due order and instruction, and its meetings are held with the best of precautions, so that it may flourish in holiness and also contribute to the good of human society. These are like legions and armies, fighting the battles of Christ, defending His most sacred mysteries, under the auspices and guidance of the heavenly Queen: to whom, through her prayers, rites, and ceremonies, it has been clearly and magnificently shown that she is favorable.

Therefore, let us strive with all our might...

[*Latin ed. p. 199*]

ENCYCLICAL LETTER concerning the founding, expansion, and regulation of pious associations. We desire that all, not only those who teach in the schools of the Holy Father, although they ought to strive most diligently in this regard, but also all those who care for souls, in sacred places where these associations already legitimately exist, should labor in this matter. And it is also most pleasing to Us that those who undertake sacred expeditions for the propagation of the doctrine of Christ, whether among barbarous peoples or to confirm it among civilized ones, should also strive in this regard. We are not the least bit doubtful that many of the faithful, animated by zeal, will wish to give their names to such associations, and will strive with the greatest diligence to attain those excellent aims which We have set forth, namely, those in which the reason and, so to speak, the essence of the Rosary are contained. Moreover, the example of such associations will inspire a greater reverence and piety towards the Rosary itself among the faithful; and thus encouraged, they will expend even greater efforts so that, as We most desire, they may abundantly share in the blessings of good things. Therefore, this hope shines forth for Us, and in this regard We are greatly consoled; and that it may be fully realized, let the inventor and mistress of the Rosary, the Mother of God and of men, MARIA, intercede. We are confident that all your endeavors, Venerable Brothers, will bring about the prosperity of families, peace among peoples, and all good things, as is fitting and proper, according to the documents and desires of Us. In the meantime, as a pledge of divine favor and of Our benevolence, We impart to you individually, and to your clergy and people, the Apostolic Blessing, with all Our paternal affection in the Lord. Given at Rome, near St. Peter, on the eighth day of September, in the sixteenth year of Our pontificate. LEO XIII, POPE.

LETTER of His Holiness Pope Leo XIII to the Bishops of Spain; concerning the founding of a college for Spanish clerics, named after Urban. As you know, with diligent care and vigilance, we have scarcely arrived at the government of the Church, and we have striven among you to defend and

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promote the Catholic cause, and above all, to strengthen the spirit and to stimulate the fruitful industry of the clergy. Now, however,

[*Latin ed. p. 200*]

•200 LETTER, and moved by the same zeal, we have added something to the benefit of your young clergy, so that, after conferring with you, we may contribute something to their formation. And we wish this to be a new pledge of the paternal benevolence with which we are accustomed to embrace you all. And indeed, it is fitting: for we remember the merits of Spain, and we are not ignorant of your steadfast constancy in the ancestral faith, in obedience to the Apostolic See; which, above all, is the reason why the Spanish name has achieved such glory and greatness, as the monuments of history testify. We also remember, and we will not fail to mention here, the many consolations and blessings that Spain has frequently bestowed upon us. Therefore, it is pleasing to respond to the merits of your clergy with mutual charity. For a long time, the Spanish clergy flourished in the knowledge of divine things and in the elegance of letters; and through these arts, it has not failed to promote the Christian religion and the ancestral homeland itself. Nor have there been lacking men of generosity who, having embraced the patronage of the arts, provided suitable support in their time; nor have there been lacking minds comparable to the theological, philosophical, and literary disciplines. We know how much the liberality of the Catholic Kings has contributed to the development of these studies, and how much effort and diligence the Bishops have devoted to them. Moreover, the Apostolic See has added every kind of encouragement, always striving that the Christian morals should not lack either the light of philosophy or the brilliance of a more refined humanity. In this regard, we must mention, as a legacy of glory, men worthy of comparison with a few, such as Francis de Suarez, John of Lugo, Francis of Toledo, and especially Francis Ximenes, who, under the auspices of the Roman Pontiffs, achieved such excellence in doctrine that they illuminated not only Spain, but all of Europe, especially through those established studies in Alcalá de Henares, by which young men, educated in the splendor of wisdom in the Church of God, like morning stars, could illuminate others on the path of truth (1). From this fertile and cultivated soil, there arose that cohort of illustrious doctors, who, invited by the Roman Pontiff and the Catholic King to the Council of Trent, wonderfully fulfilled the expectations of both

(1). Alexander VI, *Bulla Inter cetera*, April 13, 1499.

[*Latin ed. p. 201*]

LETTER 201 is completed. It is not surprising that Spain has produced so many great men; for, besides the natural strength of their minds, the most suitable means and instruments were available to them, by which the method of study could be perfected. It is enough to recall the great Lyceums

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of Complutense and Salmanticense, which, under the watchful care of the Church, flourished as renowned centers of Christian wisdom. The memory of these is naturally joined with the memory of the Colleges, which provided a common home and comfort to ecclesiastical men distinguished by their talents and eagerness for knowledge. But you, venerable Brothers, have before your eyes the misfortunes of later times. In the upheavals of the republics, which disturbed all of Europe in the preceding and this very century, the institutions that were intended to promote faith and doctrine were, as if struck by a violent storm, overthrown and their foundations scattered. With the Catholic universities and colleges thus destroyed, even the seminaries themselves began to decline, gradually suffering from a lack of the abundance of doctrine that flowed from the great Gymnasiums; moreover, they were unable to maintain their former state due to internal wars and disturbances, which for a long time distracted the attention and weakened the efforts of the citizens. In the time of the Apostolic See, great care was taken, with the consent of civil authority, to restore the ecclesiastical institutions that had been afflicted by the storms of time; and the greatest concern was to restore the diocesan seminaries to their former state of piety and learning, both privately and publicly. But you have explored the matter and found that it has not been entirely successful. For not enough resources were available; nor could the method of study flourish in the hope of glory, because the demise of the old Lyceums had produced a shortage of suitable teachers. It is fitting that the two supreme powers should agree that, in the provinces where seminaries are established, a general authority should be created, so that those students who have made greater progress in theology may be admitted to academic degrees, according to the ancient custom. However, many obstacles have prevented this from being fully realized, and they still exist today. Therefore, with the protection of the old Lyceums removed, many things are lacking from those aids without which it is difficult for the clergy to aspire to a complete and abundant accumulation of learning, so that it is the voice and opinion of prudent men that a more perfect and more comprehensive method of study is needed in the seminaries. But—

[*Latin ed. p. 202*]

202. What is most important to us, especially considering the example of our predecessors, who spared no effort in promoting the best studies. In this regard, the outstanding foresight of the Pontiffs has shone forth most brightly, inasmuch as they have drawn young clerics from afar to this very city, the head of the Catholic name, and have endeavored to gather them in colleges, with the greatest care, whenever either the resources for their studies were lacking in their own homeland, or the soundness of the institutions was threatened by the neglect of the Church's vigilance. For this reason, several colleges were founded in Rome, where young men from

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foreign lands are wont to come together for the purpose of sacred studies, so that, once initiated into the priesthood, they may contribute the talents and abilities they have acquired in the city to the common benefit of their people. It is our judgment that these institutions have produced abundant and salutary fruits, and we shall certainly deem it a worthwhile endeavor if we increase the number of such institutions: therefore, we have established a college for the Armenians, and another for the Bohemians in the city; and we have taken steps to restore the Maronite college to its former dignity. We have been concerned by the frequent presence of these young men from foreign lands, since their number is not inconsiderable among your citizens. However, with the hope of a beneficial outcome, we have resolved to ensure that the urban college of Spanish clerics, which was founded not long ago by the wise and industrious efforts of priests, not only remains stable, but also flourishes. Therefore, we decree that all those who come from the Iberian Peninsula or the nearby islands under the jurisdiction of the Catholic King, shall be under our protection; that they may use the common refectory, be subject to the discipline of the lecturers, and devote themselves to those studies which perfect the mind and spirit. We believe that the urban buildings, belonging to the Dukes of Altemps, the priors, and now rightfully ours and of the Apostolic See, offer a suitable place and home for this purpose; moreover, they are hallowed by the memory of the martyr Pope Anicius, whose very remains rest there, and by the devotion to the memory of Charles Borromeo. Therefore, we grant and assign to the College of Spanish Bishops the use and enjoyment of these buildings, according to this law, so that they may use them to receive and care for their own clerics, if they have decided to send them here for the purpose of study, as we have said. Let these plans be carried out more quickly, and let the time be taken to prepare the buildings and other necessary things.

[*Latin ed. p. 203*]

LETTER 203, to provide what is necessary, while meanwhile the clergy gather, uncertain about the matter, from the illustrious family of Altiera. — We designate the Archbishops of Toletanum and Hispalensem, who shall act with Us and with Our successors in the more serious affairs of the College; and for this reason, We urge that those who are in charge of the College, concerning family matters, discipline, and the morals of the students, annually report to Our Sacred Council concerning the aforementioned matters, and that the aforementioned Archbishops report in writing to their colleagues, the Bishops of Hispaniae, who will take care of the matter. — It is your duty, Venerable Brothers, to assist and carry out Our intentions with such eagerness and diligence, as the circumstances demand, and as your episcopal virtues promise. — Meanwhile, We impart to you, Venerable Brothers, as well as to the clergy and faithful entrusted to your care, Our Apostolic blessing, a special testimony of Our benevolence, in

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the Lord. Given at Rome, at St. Peter's, on the twenty-fifth day of October, in the year 1893, in the sixteenth year of Our Pontificate. LEO XIII, Pope. FROM THE SACRED CONGREGATION OF THE COUNCIL OF ANDRIA, OF SACRED FUNCTIONS AND JURISDICTION. May 6, 1893. Session 25, chapter 13, concerning the reform. SUMMARY OF FACTS. In the city of andriensi, among other churches, there existed, and still exists, the church of the Blessed Virgin Mary, greeted by the Angel, in which, from the beginning of its construction until the year 1813, a certain number of priests, or a College, diligently devoted themselves to divine worship and the salvation of souls. Around the year 1700, to this church, from the aforementioned college of priests, for the sake of honor only, were added members of the pious Sodality of the Immaculate Conception, which originated from the church of St. Mary the Old, where it was canonically...

[*Latin ed. p. 204*]

204 ANDRIEN. It had long existed, but, due to the increase in the number of members, it had been forced to relocate. However, after only four years, these same confreres obtained from the Bishop the canonical erection, or rather, the confirmation of the erection, which, readily complying with their wishes, he decreed with the following terms: "We, Andrew Arianus, Bishop of Andrien, desiring the increase of divine worship in this city, especially in obedience to the prayers of the most pure and most blessed Virgin, by our ordinary authority, and in a more effective and valid manner, as we are able and have the right, establish, confirm, and grant to a congregation of the faithful of both sexes, under the invocation of the Immaculate Conception of the Blessed Virgin Mary, erected in the Collegiate Church of the Most Holy Annunciation of this city, legitimate and perpetual strength, with the faculty of assembling, and of performing all other things described below by the rules which We have described to them, and furthermore, We grant to it, and, for the sake of a perpetual union, and also of the declared dependence, add and incorporate rights, privileges, precedence, revenues, and all other things requiring a special and individual expression, which pertained to the congregation under the same title of the Immaculate Conception of the Blessed Virgin Mary, formerly erected in the Church of Santa Maria Vecchia, belonging to the Observance of Saint Francis, with all its obligations, and We substitute the same in that place, and declare it to be the same, and together with these confreres, We prescribe and assign the following rules in the vernacular language for easier understanding." Furthermore, the members, over time, considered it necessary to add other rules, to which the approval of Ferdinand IV, King of both Sicilies, was subsequently added. Some of these statutes will be mentioned below, as the circumstances require. It must also be noted that it is not clearly evident from the documents to whom the right of governing the church was granted, since the college of priests moved from the same

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church to another temple in the city in the year 1813. Indeed, if we consider a certain document presented by one of the litigants, namely, a...

[*Latin ed. p. 205*]

ANDRIA. 205. After hearing Zinni, it would seem that the Chapter of the Most Holy Annunciation had succeeded to all the rights of the Cathedral Chapter, so that it began to exercise true jurisdiction in that church, as if in a filial church, especially by appointing each year a canon from its own ranks, who would celebrate Mass there on each festive day. However, if we are to believe the testimonies and documents presented by the patron of the Confraternity, it would be necessary to hold that the same Confraternity, after the departure of the clergy, remained alone and truly as the owner in the aforementioned church for forty-four years, that is, until the year 1857. Indeed, the Andrian court in its soon-to-be-reported judgment is ambivalent. With the passage of time, and precisely in the year 1857, by a decree of the Sacred Congregation of the Council, dated April 23, entrusted to John Longobardi, the Andrian Bishop, as a special delegate of the Apostolic See, the church of the Most Holy Annunciation was brought, according to the course of law, to the true and real condition of a parish. However, in the executive decree, the aforementioned Bishop added no mention of the Confraternity of the Immaculate Conception existing there. Nevertheless, the confreres remained in their church even afterwards, and, although the current parish priest asserts the contrary, it is found in the records that relations between them and the parish priests have proceeded peacefully until these recent times. The Bishop first endeavored to resolve the controversies that recently arose. But when nothing availed, the parties appeared on September 2, 1889, before the episcopal court for the resolution of the dispute; and each presented their own petitions. Therefore, after a properly instituted and completed judgment, on May 29, 1891, a sentence was issued by that episcopal court, which decreed as follows: The Rector of the Sodalitium of the Immaculate Conception, may celebrate plain Masses in the church, now a parish church, which are the obligations of the Sodalitium; provided that a time is chosen that does not disturb the parish priest's office; he may also, after informing the parish priest, and at a time agreed upon with him, chant at the altar of the Sodalitium, in the same church.

[*Latin ed. p. 206*]

206 ANDRIEN. states, concerning Masses, which originate from the ancient obligation of the same Sodality, such as Masses sung for deceased confreres. The Rector, depending on the parish priest, can celebrate those ecclesiastical functions which were an ancient obligation of the Sodality, such as those functions which, even after the dissolution of the Chapter by the Church of the Most Holy Annunciation, were performed with the

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exposition of the Blessed Sacrament, with a sermon and solemn blessing on Saturdays of Lent, during the three days of supplication for the Immaculate Conception, on the day of the procession of the Blessed Virgin Mary, according to the ancient concession, through the city, according to the norms to be observed as often as ordered by the Ordinary. The Rector's dependence on the parish priest regarding these functions, obliges the Rector to inform the parish priest, who, if he wishes, may instruct the Rector, as the superior of the Church, to oversee the compatibility of these functions with parish practice, due to the time or other reasons; but also to obtain permission for these functions, first from the parish priest in those matters in which he can, and then from the Ordinary of the Diocese, who, except for parochial rights and functions, has the authority to permit a priest to preach and perform solemn functions even at the altars of parishes, and especially if it is a question of the solemn exposition of the Blessed Sacrament, for which permission must also be requested from the parish priest from the Ordinary. Regarding other functions, concerning which it is not certain that they pertain to the Sodality by right of patronage, or because they have been included among the rules protected by regional approval; nor is it certain that ecclesiastical authority has granted that these functions be performed by priests of the Sodality after the departure of the proper clergy of that Church; for these functions, a dispensation from the parish priest implies that the manner of performing them, and the persons to be employed in the sacred ministry, must be established by him; and all of this must be overseen by the parish priest or the head of that Church, concerning functions which, by special title, do not pertain to the Rector of the Sodality. Regarding other questions, the Judge states: 1. it is unnecessary to discuss the ownership of the chapel adjacent to the oratory where the confreres meet; as long as the use of the same

[*Latin ed. p. 207*]

ANDREW 207: The common parish priest and the Sodalitas, as they were a common entity, should not be separate. We have decided that the feast day and celebration of Saint Sabinus should be a sacred observance for the Church of the Most Holy Annunciation, since, as stated from the beginning, this matter is for public veneration, so that no one may claim ownership of it. The feast day of this Saint should be celebrated jointly by the Sodalitas and the parish priest, but in such a way that the parish priest has the guiding role, and the Rector of the Sodalitas assists him, as is indicated in the instrument of the year 1787, between the chapter and the Church of the Most Holy Annunciation, which still has the force of obligating. Regarding other disputes concerning funeral practices, we believe that nothing should be added, given the numerous resolutions issued by the Holy See, to which both parties must adhere; but we do decree that the Church of the Most Holy Annunciation has the right to burial, as it

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is a parish, unless the Sodalitas presents any document proving its right to grant burial in its own name. We have decided that the Sodalitas does not have the power to request stipends within the confines of the Church to which it is attached, and in which, after its establishment, full rights belong to the parish priest as head; unless there is an apostolic indult granting the Sodalitas the power to collect alms in the Church, but only in the city, for the solemn celebration of the Feast of the Immaculate Conception. We also decree that the Sodalitas has no right over the two workshops concerning which there is a dispute, but they should be administered with the favor of the parish, unless the Apostolic See judges otherwise. However, since neither party could acquiesce to any of these opinions without violating their own rights, a new examination and a new judgment on this controversy were urgently requested from this supreme tribunal, in the degree of appeal. Synopsis of the Discussion. He who defends the rights of the confraternity, in the beginning of his argument, strives to demonstrate the non-parochial functions that are proper to the pious Sodalitas, and especially the celebration of Masses for deceased confreres.

DEFENSE OF THE SODALITY.

[*Latin ed. p. 208*]

208 AND RI EN, in the third, seventh, and thirtieth articles, pertain to the director of the confraternity in this case. This, he believes, is evident from the fact that the confraternity, with the consent of the collegiate chapter, was legitimately transferred to the church of the Annunciation, and there canonically established, no differently than it previously existed in the old church of Saint Mary, with all the rights, privileges, revenues, honors, and obligations with which it had been originally founded. Furthermore, he argues, since the confraternity has always possessed, and presently possesses, the power to choose its own spiritual director, as other sodalities in the same city commonly do, it is abundantly clear that such an election was specifically established so that the confraternity could, through its own director, fulfill its own functions, which in no way can be called parochial. This, in fact, is what commonly happens in all confraternities in other churches in the city. Therefore, the speaker concludes, where these things are the same, the same provision of the law must be applied. But to these, a great weight is also added by the immemorial and uninterrupted observance, which, if it is certainly always to be considered the best interpreter of the law, as Cardinal De Luca states in *De iure patr.*, disp. 60, n. 9; all the more so if, as in this case, it is closely related to and contemporaneous with the founding of the confraternity, as is stated in S. O. O. in Ceriniolen, Interpretation of April 1, 1876, § Orta. The patron further argues that this custom is indeed maintained, and provides ample proof through numerous testimonies and, in the first place, through the attesta-

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tion of many confreres. The testimony of five former pastors and assistants of the church of the Annunciation is consistent with this. The speaker adds that this testimony not only clearly demonstrates the thesis, but also clearly shows that the current pastor is the author of the discord. And this, he believes, is further strengthened by the declaration of the senior members of the confraternity. To this is also added the testimony issued by the custodian of the capitular archives. Therefore, the patron concludes, from the immemorial and constant observance, it is manifestly...

[*Latin ed. p. 209*]

ANDRIEN. 209: It is clear that the functions of the sodality, and the celebration of Masses for deceased confreres, pertain to the rector of the sodality. Furthermore, if a custom, which removes what is due by common law to the parish priest in his church, must be forty years old with a title, etc., according to Monacelli, *Form. leg. praef. for. eccl.*, title 13, no. 89; a fortiori, this must be admitted in the case where not only is the observance and custom ancient, but it concerns only non-parochial functions, which are not due by common law solely to the parish priest, and for which, according to the same Monacelli, loc. cit., no permission from the parish priest is necessary, but only the permission of the Ordinary. Moreover, all of this is further strengthened by the statement of the diocesan Synod, which, in the chapter concerning confraternities, decrees: "I. We decree that no priest shall be chosen for the office of rector, unless he is a confessor and preacher of the divine word, etc. . . . III. Furthermore, the rectors shall strive to ensure that the obligations . . . of Masses and pious works are fulfilled at fixed times, lest, etc. IV. Moreover, the rector of the sodality shall attend to the well-being of the church and the chapel, and to all things that pertain to the divine worship." Therefore, the proponent argues, if, according to the Synod, the rector of the sodality must be a preacher; if he must strive to ensure that the obligations of Masses and pious works are fulfilled; if he must attend to things that pertain to the divine worship; then, undoubtedly, this indicates nothing better than that the rectors of sodalities must properly fulfill their own functions and the celebration of Masses, according to the statutes and regulations. To this, he adds further confirmation from the well-known decree of the Holy Roman Congregation, where, after the resolution of the thirty-third doubt, the following is added: "provided, however, that conventions and agreements perhaps made in the erection of confraternities, agreements entered into between the parties, and approved by the Holy See, indulgences, synodal and provincial constitutions, and immemorial, or at least centennial, customs are observed." (1)

(1) This decree is cited throughout Vol. I, page 591. Acts, Vol. XXVI, fase.

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CCCIV, 14.

[*Latin ed. p. 210*]

210 ANDRIEN. He argues that the Bishop of Ariano established a director for the sodality during its founding, to fulfill spiritual duties, and that the statutes of the same sodality prescribe that the director should fulfill non-parochial functions and celebrate Mass. And since the observance of these matters clearly precedes the aforementioned decree of the City and the World, he maintains that it could not have been abrogated by it, but rather remains entirely valid and in full force. Furthermore, the advocate seeks to support his claim, arguing that the sodality not only had a chapel entirely distinct from the church of the Most Holy Annunciation, but moreover, that the aforementioned church undoubtedly belonged to the sodality itself, before it was elevated to the rank of a parish, so that it must truly be admitted that the parish was established within the church of the confraternity, and not that the confraternity was established within a parish church. Consequently, he concludes that the resolutions of the first and second doubts mentioned in the aforementioned decree of the City and the World are not applicable in the present case. Specifically, that confraternities established in parish churches are dependent on the parish priest with regard to non-parochial functions, but rather that the matter belongs to the decision expressed in the third and fourth doubts of the same decree, according to which sodalities established in a public church, separate from the parish, are not dependent on the parish priest with regard to ecclesiastical functions that are not parochial. Finally, he believes that it should not be omitted that, in any event, the Confraternity of the Immaculate Conception still possesses its own chapel, as we mentioned above, to which one can access without passing through the church. With these observations, the advocate states that the Bishop, in his aforementioned opinion, adheres to the principle that, except for the celebration of Mass, the other functions should be carried out by the director of the sodality, depending on the parish priest, but that this must be done in such a way that the permission of the parish priest is obtained in those matters that are within his authority, or of the Bishop. However, the orator objects to this dependence, arguing that the Bishop cannot, without a note of contradiction, impose a burden on the confraternity.

[*Latin ed. p. 211*]

ANDRIEN. 211 argues that the request for permission, from the parish priest, to fulfill their functions, as stipulated by the rules and agreements, which must also be carried out through the sacred and ritual ministry by the spiritual Rector of the Sodalitas, is justified. Proceeding to the second point of his argument, the patron claims that the Confraternity can collect alms within the church and the parish boundaries, solely depending on

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the Ordinary. To support this assertion, he presents an argument based on the fact that Bishops, within their dioceses, can do everything that the Supreme Pontiff can do throughout the entire world, except for those things specifically reserved. He cites Barbosa, *De off. et potest. Ep.*, part 2, all. 1, n. 6, and consequently argues that the parish priest has no right to oppose the collection of alms by confraternities, whenever the Ordinary grants permission. This right, he states, is explicitly recognized by the episcopal decree, and is further supported by ancient custom, and was confirmed by the delegate of the Supreme Pontiff in his decree of February 21, 1708, which also sanctioned the right to request a stipend, among other things: "Those who are, as it is written in the aforementioned decree, in true, real, actual, civil, and corporal possession of the solemnization of the feast of the Immaculate Conception within the collegiate church of the Annunciation, of carrying the statue of the Blessed Virgin through the city of Andrien, of collecting funds for that purpose in the usual manner, etc." The patron readily acknowledges these points in the Bishop's decree. Thirdly, raising another question for examination, namely: the ownership of the buildings adjacent to the parish church, and specifically the large chapel, commonly called the "cappellone," as well as the statue of St. Sabinus, and the sacred furnishings, which belong to the confraternity, having first explained the concept of ownership, citing *Rota Dec.* 48, n. 11, and *Dec.* 106, n. 15, before Ratto, he first affirms that the ownership of both workshops adjacent to the church belongs to the sodalitas. He strives to demonstrate this by arguing that this ownership was not altered or transferred to another party by the decree of erection. However, regarding the large chapel...

[*Latin ed. p. 212*]

212 ANDRIEN', commonly called "cappellone," maintains that the property belongs to the sodality, based on a public instrument dated April 4, 1787, stipulated between the representatives of the sodality and the chapter of the church of the Most Holy Annunciation. However, when the number of members of the sodality increased, in the year 1734, with the consent of the collegiate chapter, and on land granted by the chapter of the cathedral church, they built not only a large chapel with an altar, a painting of the Immaculate Conception, and a statue of Saint Sabinus, but also an oratory in which the brothers could meet. Indeed, he states that in the aforementioned instrument, while on the one hand, the use of the large chapel for sacred functions is established between both parties, namely, the sodality and the collegiate chapter, on the other hand, the property is determined in favor of the pious sodality. And because of this property, the burden of maintenance is borne by the sodality, the opinion of the episcopal court, which speaks only of the use of the chapel, therefore seems to require reform, so that it explicitly declares that the large chapel, with regard to property, belongs only to the sodality. Otherwise, it would have

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no corresponding entity to share its expenses. Similarly, the same opinion requires reform when, with regard to the statue of Saint Sabinus, it affirms that no one can claim ownership of it. Since it is established that the work and expenses for its construction were undertaken by the priest, a member of the sodality, Francis of Leva, therefore, the patron appeals to the common opinion of doctors, according to which, that which a member has donated to the sodality is understood to be that which he has done in honor and for the adornment of his sodality. Therefore, he concludes that the statue belongs to the confraternity, but its use remains perpetually and irrevocably with the parish church. Furthermore, the patron laments that the bishop unjustly granted the parish priest the right to perform the ceremonies for the feast of Saint Sabinus, because the instrument of the year 1787, invoked by the bishop himself, with the exception of property, grants equal rights to the sodality and the parish priest. Regarding the sacred furnishings, of whose property, due to a lack of documents, the court refrains from giving judgment.

[*Latin ed. p. 213*]

ANDRIEN. Here, the patron presents the strongest argument in favor of the confraternity, stating that it can be inferred that the confraternity possesses a valid claim based on the fact that it has, for many years, performed sacred functions within the church of the Most Holy Annunciation, as if in its own dwelling, and therefore it is unthinkable that it would have repeatedly sought to borrow sacred vestments. But, more importantly, the advocate points out that the very parish priest himself has testified to the confraternity's right to the favor of the sodality. Finally, addressing the ultimate point of contention, the patron argues that the confraternity has the right to erect a tombstone at the funerals of its members, independently of the parish priest, and that it is not obligated to leave the candles placed around it in the parish church. Moreover, he cites the authority of John Baptist Bassi, Bishop of Anagni, who stated: "Confraternities do not regularly have the right to perform funeral rites, unless by custom, or by an ancient prescription, or by a privilege or concession from the Bishop," *Tractatus de sodalitatibus*, question 5, number 1. He observes that this is all the more true in the present case, where only the celebration of a Mass for the dead, along with the erection of a tombstone at the funerals of the confraternity members, is in question. He argues that this celebration of Mass with singing, and the erection of a tombstone within the confraternity's church, is by no means to be considered among the parochial functions, as can be seen in a completely similar case in Cardinal De Luca, *De parochiis*, discourse 31, number 3. But he makes this even clearer by citing a recent decree from the Sacred Roman Congregation, which, in response to a question posed on May 19, 1879: "Is it permissible to sing a Mass for the repose of the soul in another church, even among religious, which the faithful

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request to be celebrated for deceased parents or friends, after the funeral rites have been performed in the parish church, even if the funeral Mass is not celebrated in the parish church?" replied: "Affirmative, provided that the rules of the rubrics are observed." Therefore, the advocate concludes, it must be admitted that this is permissible, especially for a confraternity that performs the funerals of its members according to its own regulations, within its own chapel, completely distinct from the parish church.

[*Latin ed. p. 214*]

214 ANDRIEN. Furthermore, he added, the patron asserted, there exists a time-honored and constant custom that seems to establish this practice. Therefore, he concludes that, according to Bouix, *Tractatus de Epistolis Particularibus*, part 5, page 324, "a Bishop cannot prohibit, nor restrict, the customary exercises" of confraternities; a fortiori, a parish priest cannot do so, especially when the parish, as in this case, was established within a church belonging to the sodality, and not within a parish church. The sodality, therefore, retains its prerogatives and qualities, which must continue to be observed with their original force, as happens with other civic sodalities whose churches are located within parishes, and yet they nevertheless perform all ecclesiastical functions and the funerals of their members according to custom, through their own chaplains, without the involvement of the parish priests of those same churches. DEFENSE OF THE PARISH PRIEST. On the other hand, the parish priest, Zinni, in a written statement, affirms first that the functions, although those of the sodality, must be performed in the parish church by the parish priest himself, and not by priests affiliated with the sodality, and he strives to justify this, not only on the basis of the office of the parish priest, but also on the basis of his role as rector of the same church, in which he truly holds supreme authority, and has obtained true and complete independence, from which, as a parish priest, he has been entrusted, through the tradition of the keys, with the true and real possession of that church, and thus he is the proper and natural rector of the same. But it pertains to the rectors of churches to exercise all the functions that are performed therein, as is mentioned among others by De Fargna: "For we have the unanimous opinion of all the doctors affirming that it pertains to the rectors of these churches to perform blessings, and other non-parochial functions." *De Repar. part. 1, canon 4, chapter 9, numbers 4, 6, 9, etc.* This doctrine is supported by a sanction in many decisions, especially those of the Holy Roman Congregation, as in the case of Bisinianen, dated October 6, 1640; Cusentinen, April 26, 1834; and others. If this is granted to a simple rector of a church, then all the more so to a parish priest, who has his own church as his title.

[*Latin ed. p. 215*]

ANDRIE.N. 215 states that it is said to possess full liberty and absolute in-

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dependence within it: Fagnanus, Cap. ad audientiam num. 10, concerning church buildings; St. Rot., in recent decisions, 469, JI. 1 and 24, part. 19; and he who has a legally founded intention freely to perform all sacred functions within his own church, and to hold the first place in them. Gratianus, disc. for. 298, n. 89; Barbosa de offic, et potest, parodi, part. 1, cap. 9; and others. But, as the matter is examined more closely, the parish priest proceeds to investigate the relationships by which confraternities are bound to the parish priest in order to fulfill their own functions; and citing the authority of the eminent canonist, Cardinal De Luca de parodi, disc. 30, he states: "Whenever it is a question of the parish church itself, or its filial or auxiliary church, the right of the parish priest consists in the celebration of the Mass or of another function, so that it must be performed by him, and not by an outsider." He invokes the solemn decrees, published in the year 1703 by the Most Holy Roman Congregations, where the first doubt: "Do legitimately established lay confraternities in parish churches have dependence on the parish priest in performing non-parochial ecclesiastical functions?" is defined with the answer: "Affirmatively." He notes that this dependence is strengthened by the distinction made by the same Holy Congregation between parochial and non-parochial functions, so that it may be well determined what the superiors of confraternities can do in churches separate from the parish church, as is clearly evident, as testified by Benedict XIV, from the words in which Cardinal Colloredus, when proposing doubts to the Holy Congregation, used: "After these things, he affirms (Colloredus) that even chaplains can perform these functions (which are declared to be non-parochial), if those confraternities are not attached to parish churches." Instit. eccl. 105. And that this, and nothing else, must be understood from the context of all the decrees is wonderfully confirmed by the interpretation of canonists, among whom it suffices to hear...

[*Latin ed. p. 216*]

ANDRIEN. 216. Pope Benedict XIV, *Inst.* 105, § 8, no. 112, when explaining the dependence of confraternities on parishes regarding the performance of functions in parochial churches, writes: "Not only, he writes, because of parochial law, but also because of the dominion, primacy, and governance that the parish priest and any other rector holds in his church and in all its parts." Several decisions of the Sacred Congregation of Council are also in agreement with this, namely the *Ferrariensis* of September 15, 1782, in which it is stated that "it belongs to the parish priest the right of precedence in the ecclesiastical functions of the confraternity, according to the resolution of the Sacred Congregation of Rites of the year 1703, articles 1 and 2, concerning the doubt." Also, in the *Asculana* of March 5, 1887. And finally, the Sacred Congregation of Rites, on July 28, 1832, declared that functions that are not parochial "belong to the parish priest in the parochial church, notwithstanding any contrary custom." Furthermore, the parish

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priest continues, these things will not invalidate the arguments of those who assert that confraternities do not depend on the parish priest, but on a higher authority from which they only receive their own institution and life. For this would be true only as long as the sodality exists within its own church, that is, distinct and separate from the parochial church, in which, on the contrary, they must always be subject to the parish priest, so that this dependence is understood as that which the aforementioned decrees of the Holy Roman Congregations of the city and the world intended to establish in order to avoid disputes; that is, not a fictitious, but a true and real dependence, according to the meaning that these terms have been given by the canonists themselves. Furthermore, he believes that this is also evident from the very natural purpose of all pious sodalities, which, apart from Clement VIII in the Constitution *Quaecumque*, and many others, is beautifully explained by Benedict XIV when he says: "These [confraternities] are undoubtedly instituted not so much to exercise sacred functions, or to be received into the part of the ecclesiastical hierarchy, but so that they may undertake acts of penance useful and suitable to themselves, and works of mercy for their neighbor." *Tit. eccl.* 105, § 3, no. 92. Therefore, if, by their very natural institution, confraternities are primarily...

[*Latin ed. p. 217*]

ANDRIEN. 217. Quoad eos qui solum ad opera pietatis tendunt, licet eis, postquam ea opera complent, aliquando exercere sollemnes actus cultus publici, non aliter quam per rationem quaedam specialis concessionis, sed semper servatis illis conditionibus quae a iure statuuntur, et quae, praesertim, in decretis supra memoratis continentur. Deinde, ad secundum punctum controversiae, parochus Zinni negat confraternitatem habere ius colligendi eleemosynas intra ecclesiam et limites paroeciae, et hoc arguit ex eo quod parochus solus, sive rector ecclesiae, habeat intentionem fundatam in iure, sive quoad facultatem colligendi, sive recipiendi et administrandi ea omnia quae fideles determinato fine obtulerint. Quod assertum probat auctoritate "Wan-Espen", qui scribit: "Pari consensu conficiunt canonistae parochum tanquam primarium ministrum ecclesiae parochialis, de iure communi fundare suam intentionem in perceptione omnium oblationum quae obvenerunt intra limites suae parochiae, easque ei dari debere." *Iur. eccl. Univ. part. 2, sect. IV, tit. 2, cap. X, num. XIII.* Et cum canonista Wan-Espen, sicut multi alii quos orator citat, ita sentiant, exempli gratia, Fagnanus habet: "Parochialem ecclesiam habere intentionem fundatam de iure communi super omnibus reditibus spiritualibus intra limites parochiae suae." In *Pastoralis cap. IX de his quae fiunt a Prael. n. 13*. Nec hoc ius, contendit parochus Zinni, potest destrui per specialem licentiam Episcopi, ad quam confraternitas se obtulit. Nam, ait, obstet praescriptioni Synodi diocesanae, expressa his verbis: "Nos, canonicis sanctionibus obsequentes, parochis omnibus mandamus, ut in

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suis paroeciis, sine nostra vel Vicarii nostri generali, in scriptis licentia, nulli cuiuscumque conditionis liceat, sive mulieri, sive laico, sive confratrum sacco induto, cum capsulis vel aliis id genus, sive per civitatem, sive per agros, eleemosynas quocumque pio nomine colligere, sub poena excommunicationis latae sententiae in contrafacientes." *Tit. 4, cap. 4, de parochis, n. 17.*

[*Latin ed. p. 218*]

218. ANURIE, N., asserts, quite illegally, that the Bishop had granted the confraternity the faculty to collect alms for the feast of the Immaculate Conception throughout the city, because the document upon which his judgment is based lacks pontifical sanction, and it grants the confraternity nothing beyond what is derived from the Clementine Constitution *Quaecumque*, namely, the right to collect "according to the manner and form prescribed by the local Ordinary." However, as we have indicated above, the faculty to collect is prohibited to confraternities by the diocesan Synod; therefore, the matter appears to be settled. Furthermore, that document, older than the parish's erection, could be considered to have been abrogated by the parish's erection, as if contrary to parochial rights, just as the parish priest himself declares without any doubt. Thirdly, the parish priest Zinni believes that, with regard to the adjacent buildings, the principle "the accessory follows the principal" applies; and therefore, since the church belongs to the parish priest, so too the aforementioned buildings, united with the church, should belong to him. And the parish priest is convinced that he can safely assert this, both from the bull of parish erection and from the decree concerning material possessions, in which, whether concerning the church or the large chapel, commonly called the "cappellone," he himself was lawfully and peacefully, and without any opposition, duly inducted. Moreover, it should be noted concerning the chapels granted to the same parish priest by the apostolic delegate, as testified by the canons Xaverius Cannone, Thomas de Simone, and Franciscus Sgaramella. Furthermore, the parish priest continues, that the confraternity violates the oldest statutes of the church, in which the property of one altar dedicated to Saint Sabinus, and existing "nel cappellone," is granted to the chapter. Furthermore, the parish priest Zinni affirms the nullity of the public instrument of April 4, 1787, which was presented by the confraternity. For it must be noted that at that time, disagreements arose between the confraternity and the chapter of the church concerning sacred matters (the "cappellone," the chapels, the statue of Saint Sabinus), and that, for their resolution, laymen could not be chosen, according to the principle: "Laymen are not to treat of ecclesiastical matters."

[*Latin ed. p. 219*]

ANDRIEN. 21 & maní ». Pope Eugene decreed in *ib.* II and elsewhere

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that « a compromise is not valid if it is made concerning things which do not depend on the power of those who are making the compromise. » John Andr., after Hostiensis, in chapter *Pervenit in fine supra eodem*. Therefore, since the prince of that stipulated agreement, having not previously obtained any authority from legitimate authority, was the Duke of Andria, who, as historical documents testify, was hostile to ecclesiastical authority, and furthermore, as he previously held the confraternity in contempt, and therefore, as it is permissible to naturally infer, was perhaps admitted as an arbiter of the controversy only out of fear by the capitulars, it is manifestly clear that the aforementioned instrument, lacking any ecclesiastical sanction, has been tainted with the stain of nullity. It should also not be overlooked that the same instrument is replete with ambiguities and contradictions. Thus, while the confraternity is declared to be the owner, the church chapter is granted the power to nominate a chaplain for the grand chapel each year. It is stated that an inscription should be kept there, attesting to the construction carried out by the confraternity, and then it is added: « but these inscriptions are not intended to prejudice the aforementioned church. » But even granting, and not conceding, that the parish priest acquired the true right of patronage in the grand chapel and in the chapels of the confraternity, he could never exercise absolute dominion therein, because, as De Luca states in *Discipline* 12, no. 6, on the subject of preeminences, « the right of patronage which is granted to laymen by reason of foundation and endowment in churches or chapels, is said to be merely a grace to attract their founders or benefactors, and undoubtedly does not imply dominion. » Furthermore, with regard to the two workshops, the property of which the confraternity claims to possess, it should be noted that these were formerly two chapels of the church of the Annunciation, which were converted to profane use, and when the clergy subsequently left, the Bishop, in order to prevent the necessary revenues of the church from being lacking, provided a remedy for this conversion by granting the church the canonical power to close them, and to convert their revenues into the property of the church.

[*Latin ed. p. 220*]

220 In Andria, moreover, he obtained from a document taken from the episcopal archives, and presented it in the proceedings. However, regarding further claims of the Brotherhood concerning the image of Saint Sabinus, the parish priest Zinni opposed these claims with a confession from the Brotherhood itself, which the Brotherhood could not deny, admitting that the said image belonged to the family of Andria Teva. When the aforementioned family abandoned the statue, and no document of legitimate possession from the Brotherhood is presented, the parish priest maintains that the ownership of the statue has passed to the church, by natural succession. Furthermore, the parish priest believes that it was useless for the

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Brotherhood to appeal to the church regarding the aforementioned document on April 4, 1787, because, as we have already seen, he considers that document to be vitiated by a flaw of nullity. Finally, to vindicate the ownership of the sacred vessels, which the Brotherhood seeks to claim as its own, the parish priest Zinni presented a public document requested from a certain Francis Paul Christiani, in which the sacred vessels are described, which were left for the use of the church by the Chapter of the Most Holy Annunciation. Finally, concerning the last question, namely the erection of a tomb in the burials of the confreres and whether the rights of burial and the placing of candles belong to the parish, the parish priest observes that it is impossible to doubt that the right of burial belongs only to the parish, and the right of conducting the funeral rites belongs only to the parish priest. Such canonical doctrine could only be made an exception for a particular Brotherhood through an expressly granted privilege. But the Brotherhood of the Immaculate Conception neither obtained such a privilege, as the episcopal judgment testifies, nor ever exercised it, because, as is shown in the proceedings, the right of burial and the right of conducting the funeral rites in that church was exercised by the clergy, and later by the chapter of the cathedral. Furthermore, the parish priest observes that the statutes invoked by the Brotherhood are irrelevant; indeed, they rather protect the rights of the church, as it is stated therein: "when the royal decree was granted to these rules, in the second article, it was ordered that the right of..."

[*Latin ed. p. 221*]

ANDRIA. 221 rocks in whatever funeral. With these words, nothing clearer seemed to be lacking. However, to stand with firmer strength, he said, "There is another right of the parish priest, to receive the emoluments of the funeral, namely those which arise from the funeral and burial, chapter 1 and 10 of Clement's *De Sepulturis*. Recently, under the same title, the *Rota* before Motines, June 15, 1699. And this not because of the labor applied to burying the bodies of the faithful, but as compensation for the burden of the curate's office and the administration of the sacraments, chapter 1 of Clement's *De Sepulturis*. The *Rota* before Motines, June 15, 1699. For the measurement of such emoluments, the most well-known rules are inscribed in the body of the law: 'If the deceased has neither a proper burial place nor chooses another, he must be buried in the parish where he dies, and all the emoluments of the funeral belong to the parish in which he is to be buried. If, however, the deceased chooses a different church, then, after deducting one-fourth for the parish priest of the deceased, for the sacraments and funeral rites, all the emoluments of the funeral belong to the church in which the burial takes place.' Text, chapter 1 of Clement's *De Sepulturis*. Recently, under the same title, the Sacred Congregation of Councils in Asculana, August 29, 1773. This doctrine has

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been embraced by the Andriensis Curia in the aforementioned judgment on this very question. With these things briefly stated, the following points are to be examined: I. Whether the judgment of the Andriensis Episcopal Curia of May 29, 1891, should be confirmed or rejected in this case. And, negatively, regarding the first part, and affirmatively, regarding the second. II. Whether the non-parochial functions of a pious confraternity, and especially the celebration of Masses for deceased confreres on the days of the 3rd, 7th, and 30th, belong to the parish priest, or rather to the rector of the Confraternity, in this case. III. Whether the same Confraternity can collect alms within the church and the parish area, depending only on the Ordinary, in this case.

[*Latin ed. p. 222*]

222 ANDRIEN. IV. Concerning the ownership and jurisdiction pertaining to the buildings of a parish church, including the so-called "great chapel" (cappellone), as well as the statues of Saint Sabinus and the sacred furnishings therein, in the event. V. Whether a confraternity has the right to erect a tomb for social burials, independently of the parish priest, and whether it is obligated to leave the candles placed around it in the parish church, in the event. RESOLUTION. The Sacred Congregation, after deliberation on the matter presented on May 6, 1893, decided to respond as follows: To the first question, the opinion is to be confirmed. To the second, third, fourth, and fifth questions, provision is made as stated in the first. FROM WHICH THESE POINTS ARE DERIVED. I. The parish priest has, within his own church, a legally founded right to freely perform all functions, and to hold the primary position in those functions; due to the dominion, primacy, and governance which the parish priest holds within his church and all its parts. II. Therefore, all functions, of whatever nature, must be performed by the parish priest or by another who is dependent on the parish priest himself, so that the order within the parish church is not disturbed. III. The parish priest, as the primary minister of the parish church, has the right to receive the offerings which are made within the limits of his parish. IV. It pertains to the parish priest the right to receive the emoluments of funerals, or those which are received in reason of the funeral and burial, as compensation for the burden of the office of the curate and the administration of the sacraments.

[*Latin ed. p. 223*]

223 CAMBRAY. MARRIAGE. On March 18, 1893. Session 24, chapter 9, Concerning reforms in marriage. SUMMARY OF THE CASE. In the month of November 1890, the Archbishop of Cambray transmitted to the Sacred Congregation the petition of a certain Desideratus Lemort, who maintained that the marriage he had contracted with Maria Dennequin, celebrated before the parish priest of the town of Steenverck on November

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8, 1886, was null due to the woman's impotence. Having received a response from the Archbishop, instructing him to ensure that the proceedings were carried out in the first instance of jurisdiction until a final judgment, he duly established a tribunal in the city of Lille, where the plaintiff now resides, on December 4th, and proceedings were immediately initiated there. After the defender of the marriage had taken the oath, Desideratus Lemort gave his deposition under sacred oath before the judge, and affirmed that his wife was a hermaphrodite, and that for this reason he had never been able to consummate the marriage, although for a period of 28 days, during which they lived together, he had almost daily attempted to do so. He further stated that he had recently requested a declaration from physicians confirming her impotence, and that he had received a document from Maria, in which Maria Dennequin acknowledged her own impotence, and gave her consent for their marriage to be annulled. This declaration, which had been recognized by the municipal authority, was presented to the tribunal by the plaintiff and subsequently attached to the proceedings. Subsequently, since Maria, having been duly summoned and repeatedly urged by the parish priest of Steenverck to appear in court, refused to appear, the delegated judge declared her in contempt on January 29, 1891. Then, witnesses were heard, and finally, the opinions of two physicians regarding what had been deposed were sought. Witnesses on the part of the woman were not called, perhaps because the same parish priest, in his

[*Latin ed. p. 224*]

224. The Reverend Father from Camerac had written a private letter, stating that this seemed almost impossible, and that the people of those lands do not appeal to the tribunals unless they are forced by violence. Finally, on March 9th of that same year, a judgment was rendered with the following wording: "We judge that there is nothing to indicate the nullity of the marriage between the aforementioned Desideratus and Mariam." From this judgment, an appeal was made to the Holy Office, and at the same time, the husband's advocate added prayers to the Supreme Pontiff, requesting a dispensation from the valid but unconsummated marriage. The Archbishop, however, informed the Most Reverend Prefect: "Therefore, we earnestly implore that it not be considered burdensome for the Holy Congregation of the Council, under your esteemed leadership, to review the proceedings in question, and if the judgment rendered is to stand, that Your Holiness, since the spouses cannot reconcile and Desideratus Lemort is in danger of sin and damnation, may deign to grant a dispensation from the valid but unconsummated marriage; moreover, that all of this be done gratuitously, considering the petitioner's condition, as is customary in the cases of the poor." Consequently, on May 7th, 1891, a decree was issued: "To the Archbishop of Camerac, who should take care that the subsidiary

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petition for a dispensation from the valid but unconsummated marriage, prepared by the petitioner, be submitted in writing and transmitted to the Holy Congregation." The Archbishop immediately acted and sent the petition prepared by the petitioner to the Holy Congregation. With all of this related in the hearing of June 15th, 1891, the Most Holy Lord graciously approved that the case be presented economically, as they say, with the opinions of the consultants and the observations of the defender of the marriage. Synopsis of the Discussion. OPINION OF THE CANONIST. The question for the wise consideration of your Eminences lacks the necessary elements from which a certain judgment can be formed. Desideratus Lemort entered into marriage with Maria Dennequin on November 8th, 1886, according to the form of the Council of Trent. In the first act of marriage, the husband found the woman to be suffering from an impediment of impotence, and although he attempted to consummate the marriage during the month of cohabitation, he never, as he himself states, was able to consummate the marriage. The husband...

[*Latin ed. p. 225*]

225 CAMBRAY. He arrived at the court of Cambray, to which he belonged, requesting that his marriage be declared null and void due to the impediment of impotence. The Archbishop of Cambray delegated a judge, who appointed a defender of the marriage, and the proceedings were initiated. The man gave his deposition, witnesses of good repute were heard, but only on the part of the husband, not on the part of the wife, and the medical examination was conducted only for the husband. However, the wife was not brought before the secular court, nor was she examined in person before the ecclesiastical judge in the process. She presented no witnesses of good repute, nor did she ever wish to appear before the judge. Hence, the advocate proceeded, stating: "The documents presented by the husband are by no means sufficient to demonstrate the nullity of the marriage on the grounds of impotence." For the documents found in the process are: the examination of the husband only; the testimonies of witnesses of good repute on the part of the husband, and his own deposition. On the part of the wife, there is only her written declaration, in which she states that she knew her own impotence and consented to the nullification of her marriage. In cases of impotence, the examination of the woman appears to be absolutely necessary for three principal reasons. 1. To avoid collusion between both spouses in order to obtain a divorce. 2. So that it may be determined whether the marriage has truly been consummated, so that, if the virginity of the bride is recognized, and just causes are present, a dispensation may be obtained in a valid and unconsummated marriage. 3. So that it may be judged whether the impotence is absolute, permanent, and antecedent. The confession of the woman, which we mentioned a moment ago, although she acknowledges her own impotence, does not reveal the nature of that

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impotence. But what does the husband testify? That from the first day of marriage, he knew his wife to be impotent, both because her vagina was extremely tight, and because she was a hermaphrodite. He found a mass of flesh in her genital parts, which was similar to a male member. He kept her with him for a month and attempted intercourse in vain; then, to prove the truth of his deposition, he added: "She herself said to me..."

[*Latin ed. p. 226*]

226. "Leave me in peace, and do as you please." One month is not sufficient. For if, for a man, a period of three years is established, much more should a period of three years be assigned to a woman, so that the constricted vagina may be dilated. In the work *Laudabilem de frig. et malef.*, you requested (it is read) how long a period should be allowed to those naturally frigid, in order to experience conjugal intercourse? We, in the present consultation, believe that, from the time of the celebrated marriage, if frigidity cannot be proven beforehand, they should cohabit for three years. But Orfila, in his work *Lezioni di medicina legale*, translated by Doctor Prato, page 80, says: "That the hardness and rigidity of the genital organs and the hymen are not the cause of impotence, because they can be overcome by incision." Without incisions, he recounts that in the city of Lacusliberi, in the province of Lucania, a woman who had the most constricted entrance conceived, and the vagina was dilated during childbirth. "But neither does the mass of flesh prove it; because it is possible that there is a relaxation of the vagina and uterus between the legs, to which relaxation there is a remedy in surgical art, which deceives the husband, as if she were of double sex. The woman's constricted vagina becomes suitable through frequent conjugal intercourse. The use of five weeks is not sufficient for a perfect union. But the bride confessed to her impediment to intercourse, why does she not submit to an obstetric examination? She cannot be forced to submit to an examination to conceal her impotence, because she has already manifested it. She agreed that the marriage should be declared null. Such a course of action provides an argument for suspecting that some agreement existed between them to dissolve the marriage for reasons known to them. The examination would reveal the consummation of the marriage. To conceal her impotence, she should not only refuse to submit to a physical examination, but she should also deny it in writing. But she herself, in her written declaration, affirmed such an impediment; why did she refuse to appear before the judge? We may suspect in this case, since in our times this great sacrament is so much scorned, especially in Gallia. But perhaps she did not submit to the examination because of shame.

[*Latin ed. p. 227*]

CHAPTER 227. Perhaps the woman considered it a disgrace that the monstrosity of her body would be revealed. But such a conjecture seems

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to be of little consequence. She was of mature age when she entered into marriage. She knew her conformation, which certainly ought to have been made known to her husband, who would then have revealed it; and because in France a law of divorce had been enacted, she could foresee with great shame the future divorce. Women who are deflowered, if they do not have a means by which to deceive their fiancé during the first intercourse, often, before the marriage, preempt the lover by presenting the usual excuse of rape, alleging that they have been violated. And yet, defilement does not invalidate marriage. Women, if they are conscious of their own impotence, and they celebrate marriage, do so because they hope to become fertile through repeated intercourse. But such hope is entirely absent in hermaphrodites. If Maria Dennequin were a hermaphrodite, she would not have married: indeed, her own mother would have dissuaded her from marriage. But why did her fiancé keep her with him for twenty-nine days, and then know her? Men are usually repulsed by intercourse with such monstrous beings from the very first night. Nevertheless, the man approached her several times. What did he hope to achieve with his efforts? Could a natural hermaphroditism perhaps be cured? I suspect the testimony of the fiancé himself. But, even supposing that the woman truly is a hermaphrodite, what is to be concluded? Such a monstrosity does not invalidate marriage when the female sex predominates. In this case, before a secular tribunal, stood the sister of Maria Dennequin, who slept with her sister in the same room. When questioned, she testified that Maria was accustomed to shave her beard twice or three times a week; and that every five or six weeks she suffered from an infirmity, and had her menstrual flow. Many women have beards and bear children, and are not hermaphrodites; and no man has menstruation; and therefore, Maria is either truly a woman, and not a hermaphrodite, or, if she is a hermaphrodite, the female sex predominates in her. But the fiancé's testimony does not at all correspond to the description.

[*Latin ed. p. 228*]

228 CONCERNING those things which anatomists allege. There are three kinds of such monstrosities: Androgens, Ginandres, and Neuters, which are described by Perrone in *Medicina Legale*, volume 1, page 94 and following. When these descriptions are compared with the testimony of the husband, no agreement is found in this case. For he testified that Mary Dennequin was a hermaphrodite because he found in her genitals a fleshy mass not unlike a male member. This seems to me physically impossible. Such a fleshy mass may either be empty and be removed by surgical means, or, if it is a male member, it must be investigated to determine whether the male sex prevails. For, as is defined, according to what Mare teaches in Briand and Candé (*Medicine Legale*, I, page 179), it is necessary to inquire from which orifice urine flows and blood is

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discharged. But from the extrajudicial testimony, it is deduced that such an emission of urine and blood occurs from the usual female orifice. Therefore, either it seems false that Mary is a hermaphrodite, or it must be admitted that the female sex prevails in her. It is certainly necessary that the woman be examined. But that informal testimony of the woman, which we have already mentioned, seems to be extrajudicial and must be considered. And who can determine whether she wrote it spontaneously or under duress? From the very words of the small writing, it can be deduced that she was compelled to write it. Therefore, since nothing should be feared from such a declaration, which shows no sign of authenticity, I believe that it is appropriate to apply to the present case what Saint Raymond teaches (*L. 6, 14 Summae, Tit. de Impotentia coeundi*). If the husband is the accuser and he does not prove what he asserted, then the woman, being innocent, should be absolved from the imputation of the husband. In this case, the husband is the accuser, he has not proven the woman to be impotent, indeed his assertion is vague and ambiguous and does not rest on the teaching of the writers on medicine; therefore, the woman has not judicially testified to her impotence; she, therefore, must be absolved from the charge of impotence, unless this is validly proven. The husband cannot adduce ignorance of the participation of both sexes as a defense, which the husband attributes to the wife; for he did not immediately object to such a deformity, indeed he had intercourse with her, although, as he asserts, with a woman who is impotent.

[*Latin ed. p. 229*]

CHAPTER 229: Concerning the contraction of the vagina; thus, she was able to have relations with a hermaphrodite, if she were not impotent otherwise. According to her account, a woman who has a beard is a hermaphrodite. But before she was married, she noticed that her bridegroom had a beard. If she married him, she consented to marry a hermaphrodite. As for the impotence caused by the contraction of the vagina, it could not be remedied in one month. If, for coldness and witchcraft, three years are assigned by law, for such an impediment in a woman, I believe at least one year should be required. Finally, it remains doubtful. In this case, the validity of the marriage remains, unless it is proven otherwise. For nature is presumed to operate according to the order and the idea of the end of each thing. Nor are presumptions valid; for the value of the sacrament is at stake, and the safest course must be followed. It is not valid that the bridegroom swore, and that the parents of the bride swore, that they had heard that Mary was impotent and a hermaphrodite; nor is a written confession of the woman's impotence valid. All of these constitute probability, not certainty; and I believe that it is not in accordance with conscience to resolve a question of such importance solely on the basis of probability. Therefore, the nullity of the

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marriage is not certain. THEOLOGIAN'S OPINION. The question of the hermaphrodite is raised. Desideratus Lemort entered into marriage with Maria Dennequin, whom he immediately abandoned, because she was a hermaphrodite woman. A marriage begun by a hermaphrodite is valid according to the rule. "It is certain," says Schmalzgrueber, Part III, Title XV, 52, "that a marriage begun by a hermaphrodite, or by one who possesses both sexes, is valid, if such a hermaphrodite is not otherwise impotent according to the sex according to which he contracts the marriage." It is only doubtful, says Schmalzgrueber there, according to which sex he can contract the marriage? And he answers that he can contract according to the sex that prevails in him; if neither prevails, he can choose according to which sex he would like to be joined in marriage; these statements by Schmalzgrueber are with regard to the licitness of the marriage, for it is always valid, provided that the sex according to which the marriage is contracted is not otherwise impotent.

[*Latin ed. p. 230*]

230. The [marital] union must be so weak that it does not perfect the carnal act. Reiffenstuel states this in Book IV, Title XV. Therefore, the question of the invalidity of marriage due to hermaphroditism is reduced to the question of impotence. However, for impotence to invalidate a marriage, it is necessary that this impotence be permanent, that is, that it cannot be removed by the passage of time or by medical intervention. In the present case, it is not established that the impotence is not of the kind "which new attempts – if I may use the term employed by the doctors in this case – or a surgical intervention could easily eliminate." Furthermore, Maria Dennequin, who refused to appear, was not questioned, nor was she examined by doctors, nor were witnesses on her side heard. Therefore, the cause of the invalidity of the marriage due to impotence is not presented, but rather a dispensation is requested from a consummated marriage, because the spouses cannot reconcile, and Desideratus Lemort is in danger of sin and damnation. But how is the lack of consummation itself proven by the petitioner? Indeed, it has happened that in matrimonial causes, a dispensation is granted from the inspection of the body, and yet the lack of consummation of the marriage can be proven; but in such cases, in order to obtain moral certainty regarding the impotence or the lack of consummation, the character of the spouses, the course of their lives, and various circumstances preceding, accompanying, and following their marriage must be examined with the utmost diligence, and especially why those who seem to care little for religion seek ecclesiastical judgment, for from all these things alone it can be investigated whether their words deserve to be believed. But in our case, 1. witnesses from the wife's side are lacking; 2. there are no interrogations, and therefore the depositions are so brief and insignificant that from them we cannot extract anything certain, nor can we

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form any probable judgment regarding the lack of consummation. Indeed, some documents presented outside of court, to a great extent, contain indications that raise serious doubts about the veracity of both the spouses and the witnesses. And, above all: 1. Cl. Defensor matrimonii ex officio, R. D. Moureau, of Insulis, presents...

[*Latin ed. p. 231*]

CHAMBER PROCEEDINGS, 231. The testimony of the sister, Maria Dennequin, given outside of court, who frequently slept in the same bed as Maria, and who stated that her sister experienced menstruation every five or six weeks. This feminine indication is said to clearly demonstrate the female sex. Zacchias, *Quaestionum Medicinalium Legum*, Book 1, Title 1, Question 8, number 20, states: "It must be noted that the excretion of menstrual blood, even without witnesses, constitutes the most sufficient proof of the female sex, even if other signs were present indicating the male sex, and even if the male member were present: for the excretion of menstrual blood indicates the internal temperament of a woman, and the perfect constitution of the female genitalia, and while this [constitution] exists, it is impossible for the male genitalia to reach that perfection at the same time." - 2. Desideratus Lemort and his wife, Maria Dennequin, as is often the case in our age, especially in Gallia, are of corrupt morals. The parish priest of Steemwerck, where Maria Dennequin resides, wrote to Cl. Defensor Matrimonii: he had learned, before the marriage celebration, of the condition of his future wife, because neither of them considered the virtue of chastity to be of such importance, as the parish priest reported. From this, it is clear that they had already engaged in amorous relations before they were legally joined. How then, could Lemort only have noticed the lack of the female sex in Maria Dennequin after the marriage? 3. What Maria Dennequin thinks of this is made very clear in the letters given to Cl. Defensor Matrimonii. - After such serious testimonies, although given outside of court, who could compel us to believe what the mother of Lemort presents in court, as if it were said by Maria Dennequin herself, and as if it demonstrated her chastity and virtue? For when she was asked why she entered into marriage when she was impotent, she replied that she had no knowledge of the matter of marriage. It seems incredible that Maria could have said this to the mother of Lemort, even if she was easily inclined to believe; 4. Desideratus Lemort is not ashamed to write to his Most Reverend Archbishop, Thibaudier: "To speak the truth, I confess that I have..."

[*Latin ed. p. 232*]

232 CAMBRY. And eight months ago, I have been living in a marital state with my niece, who is a widow, in CULMORE. The depravity of morals of Desideratus Lemort is known and noted, as even the defender of that cause in the ecclesiastical court, Joseph Gervais, confesses. And yet, sworn

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witnesses unanimously answered the question: Desideratus Lemort is a man of commendable character and morals. - Can credence be given to them in other matters? - Finally, I observe 5: Why does Maria Dennequin not wish to submit to an examination by doctors or midwives? This is a matter that engenders the greatest suspicion. - Is she led by modesty? We have heard what her pastor has reported about her. - Does she not wish to confess that she is impotent? But she herself has confessed this legally. - Did she refuse to consummate her marriage with Lemort? We have seen her pastor as a witness, and he testified that she was very willing to enter into other marriages. It seems that there is no other reason for her not to agree to the marriage, except the hope of a solution to this marriage, a hope that might be frustrated if the matter, as it is, were known. Given these circumstances, regarding the doubtful proposition: "Can it be established that there was a lack of consummation of the marriage in this case?", I believe the answer should be: "No," unless: "The acts of the process should be extended and completed."

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE, BY OFFICE. Regarding those matters which are discussed with great learning by the most learned consultants, theologians, and canonists, concerning the marriage between Desideratus Lemort and Maria Dennequin, which began on November 8, 1886, I consider it superfluous to add anything further. Therefore, without delay, I humbly request that the first of the proposed questions be answered with: "The sentence is to be confirmed"; and to the second, with: "No." With these observations, the following questions have been proposed: I. Whether the sentence of the judge delegated by the Archbishop of CAMBRY, dated March 9, 1891, should be confirmed or overturned in this case. And as to whether it should be confirmed...

[*Latin ed. p. 233*]

CHAMBER MEETING. 233 II. Whether it is permissible to grant a dispensation concerning a marriage that is valid but not consummated in a certain case. RESOLUTION. The Sacred Congregation, after discussing the matter on March 18, 1893, decided to respond as follows: To I. The opinion should be confirmed. To II. Negatively. FROM WHICH THE FOLLOWING IS GATHERED: I. That a valid marriage has been duly recognized in the matter; both because it has not been sufficiently proven that the woman is a hermaphrodite, and because the marriages of hermaphrodites are not always invalid. II. That a marriage contracted by a hermaphrodite is valid, insofar as he is not impotent with respect to the sex according to which he contracts; for then this impotence would invalidate the marriage, if it rendered the contracting party incapable of carnal intercourse. FACULTY TO REPEAT THE MASS. April 29, 1893. Through summary petitions. SUMMARY OF THE CASE. The Reverend Stefanucci Antonelli, in a recent petition presented to the Most Holy Father, stated that his uncle, the priest

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Peter Stefanucci, had imposed upon him a legacy of one daily Mass, with a stipend of 125 livres, for both weekdays and feast days, to be celebrated in any church; with this exception, that during the months of July to November, the priest is obligated to celebrate Mass in the chapel at the villa, where the petitioner and her family reside. Now, the petitioner requests that the Holy Apostolic See deign to grant that the priest of this diocese may be able to celebrate a second Mass on those feast days, in satisfaction of the aforementioned legacy, for which, due to the scarcity of alms, he has not been able to provide sufficient funds for two years. She also notes that, due to...

[*Latin ed. p. 234*]

23. It has come to our attention that in certain families and neighborhoods, many do not fulfill the precept of attending Mass, if there is no Mass offered in the aforementioned chapel. The Bishop, however, added this prayer: "May all things be done in truth." The response was that the same Bishop should explain the distance between the aforementioned chapel and the parish church, and the number of faithful who live nearby, and also report on the true reason for necessity, namely, whether the absence of Mass in the aforementioned chapel prevents a greater number of faithful from fulfilling the sacred precept of hearing Mass. The Prelate replied that, indeed, many people within the year, especially during the cold season, do not attend Mass on Sundays; and that it would be very beneficial to offer Mass in the aforementioned chapel, because the parish church is too small for the number of faithful. Regarding this matter, he approved the petition, considering it truly beneficial to the people of that parish, although, as he himself stated, he could not certainly affirm the existence of a true and constant necessity for the requested arrangement.

A Synopsis of the Discussion: THE ARRANGEMENT APPEARS TO BE DENIABLE. In order to briefly address both sides of the matter, according to accepted custom, it is best to first recall the well-known provision on this subject in Chapter 3, title 41, book III of the Decrees: "You consulted us as to whether a priest can celebrate two Masses on the same day. Regarding this, we have considered it necessary to respond that, except on the feast of the Nativity of the Lord, unless a necessity dictates it, it is sufficient for a priest to celebrate only one Mass in a day." And although the Glossary adds the reason of "honesty or utility" to the reason of necessity, nevertheless, the teaching of Fagnani seems more appropriate to retain in practice, who, in Chapter In Ordinando De Sim. regarding the permission to celebrate twice, states: "This should only be done out of great necessity and with great caution." In the present case, if one considers what either the petitioner or the Bishop has stated, it seems to be more a matter of convenience than

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of true necessity, which is granted for the sake of piety.

[*Latin ed. p. 235*]

M. ACERATEN. 235 clearly stated that the dispensation was not sufficient by openly communicating with the Sacred Congregation, and, among other matters, in a response dated May 10, 1884, to De Tulacingo, he wrote: "Provided that necessity, rather than convenience, demands it, for the sake of the soul, even for a decade, if the words are spoken." The granting of a dispensation for multiple Masses appears to be permissible. However, it must be considered that, in matters of this kind, necessity is often confused with utility, since the true reason for granting the faculty to celebrate multiple Masses is to prevent the people, or a significant portion of them, from being deprived of the spiritual benefits of hearing the sacred liturgy, as is deduced from Paschal's *De Mis. Sacr.*, question 844, number 11. Furthermore, Benedict XIV, in the Constitution *Declarasti nobis*, states "that in this matter, the cause of utility with respect to the one hearing, and not celebrating, is considered." It should also be noted that the repetition of Mass was not absolutely disapproved of by the ancient ecclesiastical discipline, as is demonstrated by Thomas Aquinas in *De Vet. et nov. disc.*, part 1, chapter 3, but rather that the law forbidding it in later times was introduced to prevent certain abuses. Therefore, this ecclesiastical law should perhaps not be so strictly enforced, especially in these times, when the charity of many is cooling, and attendance at the holy sacrifice is often restricted to feast days, unless there are inconveniences or scandals. With these premises, the question was raised as to what should be answered in response to the prayers.

RESOLUTION. The Sacred Congregation, having knowledge of the matter, decided on May 6, 1893, to respond: Negatively.

S. JOSEPH OF COSTARICA: REQUEST CONCERNING THE FACULTY OF CELEBRATING MULTIPLE MASSES. July 6, 1893. Through summary prayers. In Chapter IX, concerning requests, of the report on the status of the Church and diocese of S. Joseph of Costarica, transmitted to the Sacred Congregation on March 13 of the current year, the following is stated:

[*Latin ed. p. 236*]

236 Saint Joseph of Costa Rica states: "In some of the larger parishes which have from 5 to 18 thousand inhabitants, or souls, and where there is only one, or at most two, priests present, it seems to me necessary to grant the faculty of saying a third Mass on Sundays and holy days of obligation." The reasons given to demonstrate the necessity are: "1. The piety of the people. 2. The impossibility of satisfying the piety of the people with only two Masses, in the case where there is only one priest."

The Synoptic Disputation. As has been noted before, the sacred canons, in order to permit the repetition of Mass, require the necessity of the faith-

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ful, which does not seem to be sufficiently demonstrated by the piety and will of the people, as the Prelate speaks in this case. It is known that Benedict XIV, in the Constitution *Declarasti nobis*, criticized the granting of the faculty of repeating the sacred rites by some, for the sake of the piety of the people, stating: "Moral theologians have devised too many cases with excessive leniency." Furthermore, the same most wise Pontiff, in the aforementioned passage, observed this regarding the canon of the Synod of Nemausus: "And the words must be observed diligently: *where there is not more than one priest*; and also this: *nor are there two priests in the church.* From these, it is clearly understood that it is not permitted to the parish priest, if another priest is present, to perform two Masses on holy days, so that the people may attend the sacrifice of the Mass, whether the Mass is to be celebrated in two churches that are distant from each other, or whether there is only one church in which the Mass is celebrated, and to which the entire people cannot come together at the same time."

Therefore, in the present case, since the faculty for a third Mass is requested, and consequently, there is not only one priest present, the grace should be denied. Even more so, because in the presented request, the case is described too generically, and the necessity or utility of the repetition is not demonstrated specifically for certain places.

THE FACULTY SEEMS TO BE DENIED.

[*Latin ed. p. 237*]

Saint Joseph of Costa Rica 237. The faculty of dispensing [from the law of Mass attendance] seems permissible. However, particular circumstances of place and time must be considered, which, according to the testimony of the Bishop, truly prevent many from attending Holy Mass on feast days in parishes frequented by a large population. We know that, according to an Instruction of the Sacred Congregation for Christian Propagation, dated in the year 1832, the Apostolic See granted to the Bishop of Nicopolis in Bulgaria "the aforementioned faculty [of dispensing] for the spiritual good of the faithful, so that all may be able to easily fulfill the ecclesiastical precept." Although Benedict XIV, in his cited Constitution, expressed only two reasons for dispensing from the obligation of attending Mass, the Doctors nevertheless admit that there are also equivalent reasons, and the Sacred Congregation for Christian Propagation has not only once, but repeatedly, ratified and confirmed this opinion in its practice. Finally, it must be considered that the faculty of repeating Mass is requested by the Bishop, who, above all, recognizes the needs of the people, and to whom, therefore, the Sacred Congregation rightly gives much consideration in such matters. Furthermore, it does not impede that there may already be two Masses in each parish, and that there may be only one priest present there; provided

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that it concerns parishes whose population reaches from 5000 to 18000, and therefore it would almost always be impossible for the entire congregation to attend both Masses. Moreover, the Sacred Congregation readily granted this in Castellaneta, on the 5th of March of the past year, granting the faculty of dispensing for a fourth Mass in a parish frequented by 5000 faithful (1). With these things noted, the question was raised as to what should be answered regarding prayers. RESOLUTION. The Sacred Congregation of the Council, after review, on the 6th of May, 1893, decided to respond: For the sake of the aforementioned parishes, where only two priests are present, one of them may dispense [from the law of Mass attendance] for a period of ten years, excluding, however, in any case, that any of the priests may celebrate the third Mass. (1) This was reported in Volume XXIV, page 734.

[*Latin ed. p. 238*]

FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS OF SYPONTINUS, OR THE CONFRATERNITY OF THE THIRD ORDER OF ST. FRANCIS. CONCERNING JURISDICTION AND DEPENDENCE. March 10, 1893. SUMMARY OF FACTS. The Archbishop of Sypontinus, having received certain information, reported to the Holy Congregation of Bishops and Regular Canons, under dates of March 19 and 27, 1892, that a Secular Association of the Third Order of Franciscans had been established in the Church of St. Mary of Gratiarum, annexed to the suppressed Convent of the Observant Order of Minor Friars of that city, at the beginning of the year 1884, by a professed priest of the same Observant Order, Donato Del Vecchio, to whom the local municipality had entrusted the church. Around the end of the year 1884, the Archbishop of Sypontinus, having learned of this Association, requested a decree for its canonical erection; but in its place, he was presented with a draft statute from the Congregation which was entirely inconsistent with the rule of the Third Order of Franciscans; hence, approval was denied to the Society. In the year 1887, upon the death of the regular priest Del Vecchio, and since another religious of the same Order could not be found, the Congregation appointed, in his place, a religious of the same Order as rector of the Sodality, usually a canon of the Cathedral, with the consent of the Ordinary. Subsequently, the Archbishop, with a more forceful pen, raised several complaints against the Sodality, whether concerning the indefinite affiliation of the confreres, or concerning their behavior, since many of those affiliated are young men of dissolute character and who despise the precepts of the Church, or concerning the neglect of the Rule, as the confreres have requested a Papal Brief in their favor. But the principal point of contention is that the Confratres, against the Archbishop's...

[*Latin ed. p. 239*]

SYPONTINA, OR CONFRATERNITY, ETC. 239. They arrogated to

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themselves the right of associating the bodies of deceased Brothers under their own cross, and they did not wish to depend in any way on the authority of the Archbishop. They cited the example of a certain funeral association of a deceased mother of one of the tertiaries, for at her funeral, celebrated on March 16, 1892, despite the opposition of the Ordinary, the Congregation of the Third Order, with a cross, publicly attended, and some of the members, wearing the habit of the Sodality, dared to administer absolution at the tomb, even in the absence of a priest. Consequently, the following day, the Archbishop, by his ordinary authority and also as Apostolic Delegate, forbade the members of the Third Order from performing any ecclesiastical function in the Church of St. Mary of Graces. However, this prohibition ceased shortly thereafter through the intervention of Father Romuald of Casalnuovo, the Provincial Minister of the Order of Minor Observants, and from March 25, the Ordinary permitted the celebration of Mass in the aforementioned church. On the contrary, the General Procurator of the Order of Minor Observants, to whom the Archbishop's repeated letters had been addressed, maintained, after recounting certain circumstances of the case, and arguing in a different manner than the Archbishop, that the aforementioned Sodality had the right, with a raised cross, to associate the bodies of Brothers to the cemetery and to precede other Sodalities or Confraternities; and that, concerning dependence, they should not be subject to the Archbishop, but to the Superiors of the Franciscan Order, in matters concerning the habit, profession, visitation, and internal administration of the Association. Hence, the following three questions are raised for discussion.

A SYNOPTIC DISCUSSION ON THE RIGHTS OF SODALITIES OF THE THIRD ORDER. — The General Procurator, after stating that the canonical erection of the Sodality derives from the decree of Father Donati del Vecchio dated July 30, 1884, by which the Association was founded, argued that the controversy regarding the members of the Third Order associating the bodies of Brothers to the cemetery had already...

[*Latin ed. p. 240*]

240 CONCERNING THE SYNDICATE OR FRATERNITY, ETC. It was decided in a meeting of the Third Order of Friars Minor, held on March 18, 1887, to address the following question: "Whether and in what manner a Fraternity of the Third Order ought to associate deceased members, recite the Divine Office, and carry the body to the cemetery." The Sacred Congregation of Bishops and Regulars responded: "Affirmatively, in all respects, concerning the first part; concerning the second, the Roman Ritual should be followed." The reason for this decision rests on the fact that the Society of the Third Order participates in the nature of a true religious Order, and consequently, it should also enjoy the rights and privileges pertaining to religious Orders. It is fitting to transcribe here the words of the General

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Procurator in his opinion, where he clearly demonstrates that the Third Order has always been regarded by the Popes not as a simple sodality, but as a regular Order, as evidenced by numerous Pontifical Constitutions which have not only approved this Order, but have adorned it with the greatest privileges. It is necessary to cite here Honorius III, Gregory IX, Nicholas IV in their Constitutions *Supra Montem*, Clement V, Gregory XI, Benedict XIII, who expressly stated: "Since the Third Order is not properly called a Fraternity, but a true and proper Order, entirely distinct from any Fraternity..." (Constitution *Paternae Sedis* 34), and other blessed Popes. In more recent times, His Holiness issued the wonderful Encyclical *Auspicato* on September 17, 1882, concerning St. Francis of Assisi and the propagation of the Franciscan Third Order, and in the following year, on May 30, 1883, promulgated the Constitution *Misericors Dei Filius*, in which, while regulating the Franciscan law of the Third Order, His Holiness openly declared: "That nothing should be taken away from the nature of the Order itself, which we most certainly wish to remain unchanged and complete." Adhering to this principle, the General Procurator concludes that it also belongs to the members of the Third Order to have the right to raise their own cross in the funeral procession of their brethren to the cemetery, and to precede other secular fraternities. Indeed, if the members of the Franciscan Third Order are to be considered as religious men, it must also be in accordance with their right to participate in...

[*Latin ed. p. 241*]

SYPONTINA, OR CONFRATERNITY, ETC. 241, shall possess the same rights and privileges as the Regular clergy. However, it is established that the Regular clergy have the right to proceed under their own cross to funerals, as is clearly evident from the "Raven," or Order of Minorites, *Reformat*. Concerning funerals, and more specifically in the "Raven," and in the document "Pernen. Funerum et emolumentorum," in which there is a doubt – whether the Regular clergy, with their stole and cross, can proceed all the way to the tomb, or rather, whether they must lay aside both when passing through parishes – the Sacred Congregation of Bishops and Regulars responded: "Affirmatively to the first part, negatively to the second, without pomp and without a formal procession." Therefore, the General Procurator concludes that the first doubt should be answered affirmatively. Regarding the second point, namely, the precedence of the Tertiaries over other Confraternities, after presenting other arguments, the General Procurator argues that the controversy has already been resolved by two decisions of the Holy Office of Rites. Indeed, on the first day, June 2, 1887, concerning the doubt – "Whether the group of Brothers of the Third Order, located in the church of Minorites *Reformat*, in the place commonly called Saint Bartholomew in Caldo, within the diocese of Lucerne, has precedence over the other local Confraternities, including the Archiconfraternity called

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the Most Holy Sacrament," the response was: "Precedence is to be granted privately to the Brothers of the Third Order." And on the second day, May 28, 1838, the Holy Office of Rites deemed it appropriate to respond in this way: "According to the procession of the Apostolic Constitutions, as well as the declaration of the Sacred Congregation of Bishops and Regulars, of September 20, 1748, concerning the Franciscan Tertiaries, namely, those wearing their own habit and proceeding under their own cross, the right of precedence belongs to them over any lay Confraternities." However, the Archbishop had previously objected that the exercise of these rights could give rise to disputes and lawsuits with other Confraternities in his diocese that are older. To this, the General Procurator responds: "If the Ordinary, as is proper, prudently and opportunely makes known the aforementioned decisions of the Holy See, all disputes can easily be prevented."

[*Latin ed. p. 242*]

242 CONCERNING THE SYPONTIAN OR THE CONFRATERNITY, ETC. The members, and the members of other confraternities, as well as all who are truly Catholics by name, will render obedience. Finally, concerning the dependence of the Tertiaries, the General Procurator readily admits that they ought to be subject to the jurisdiction of the Ordinary or parish priest. For the Tertiaries, like all other faithful, are subject to the Ordinaries, but not in all things, as the Archbishop desires. For if the matter concerns the governance and visitation of the Congregation of the Third Order, then the very reason and nature of the Third Order itself is opposed to it. Hence, in the aforementioned Constitutions, *Misericors Deus Filius*, concerning the habit and profession, concerning the governance and regular visitation of the Congregation, it is asserted that these matters pertain not to the local Ordinaries, but to the Superiors of the Order. "Visitors," it says, "shall be chosen from the First Franciscan Order or from the Regular Third Order" (Cap. III, § 3); and further, § 6, speaking of dispensations or modifications of the prescriptions of the rule, "The Prefects of the Franciscan families, both of the First Order and of the Third Order, as well as the aforementioned Visitors, shall have the power and authority for this matter." And this, the Reverend Procurator affirms, is also confirmed by letters from the Most Eminent Cardinal of the Secretariat of State, dated September 22nd, addressed to all the Bishops of Italy, who, speaking of the power to govern the Tertiaries, expresses himself in this way: "The ordinary authority rests with the various Franciscan families; but if the Franciscan convents are lacking, Most Reverend Fathers, you should turn to the Provincial or General Ministers of the Order, so that they may attend to this need, either by sending a religious to the parish churches to receive the faithful into the Third Order, if they desire it, or by delegating the parish priests themselves, granting them the appropriate powers." With these points clarified, the Reverend Procurator requests that a response

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be given to the question raised by the Archbishop: in the decisions and further. If, however, any difficulties should arise in the future, he asks that they be resolved with the Provincial Minister, in a good and equitable manner, always respecting the rights assigned to each.

WHAT IS OPPOSED TO THE MEMBERS OF THE THIRD ORDER. - On the other hand, the Archbishop refutes certain insinuations.

[*Latin ed. p. 243*]

SYPONTINA, OR CONFRATERNITY, ETC. 243 P. The Procurator, expounding upon the decree of the erection of the T.O. Sodality, which the members claim was obtained in Romae, while it was granted in the city of Sypontina, rejects it as not genuine, as can be clearly deduced from a careful logical and grammatical analysis of the document itself. But even if it were genuine: the erection of the Sodality could not be considered canonical and valid, since it was carried out by Father Del Vecchio, not as a Visitor or Delegate of the Order, which would certainly have been necessary, but simply as the Rector of the aforementioned church of Gratiarum, a title he holds by civil authority and not by the Order. Having impugned the decree of the erection of the Sodality, it is superfluous, he says, to dispute its rights and privileges. Then the Archbishop continues, stating that, according to Father Procurator, if the T.O. Association is a true religious order distinct from any other lay congregation, the members should give preference to modesty and relative poverty in matters concerning funerals and the exposition of deceased bodies. However, the T.O. members of Sypontina do not observe this in any way, since funeral services are carried out in their church with great pomp, and the tomb is splendidly decorated. According to Father Procurator, in order for the members to enjoy the privileges in funerals and associations of mourning, they must proceed in their own habit, and the association must be carried out without pomp and without a formal procession: but none of these things were observed in the funeral association of March 16, 1892, as previously related in this section: for only some of the members were present in the habit of the Tertiaries, while many, including some who were not members, were present in lay attire, and the funeral procession did not take place without pomp, but with musical accompaniment, and not with a formal procession, but took place throughout the entire city. Given these circumstances, the Archbishop concludes, it is impossible to understand how the rights and theories presented by Father Procurator can be reconciled with the practices of the T.O. members of Sypontina. But setting these matters aside, the Archbishop, admitting with Father Procurator that certain rights and privileges may exist in abstracto and in principle, but which, in practice, cannot be exercised due to special

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circumstances, observes that before the Constitutions...

[*Latin ed. p. 244*]

244 MANFREDONIA, OR THE CONFRATERNITY, ETC. In the city of Manfredonia, there existed several Associations of the Third Order, founded in the Franciscan churches, which were governed by them; these Associations also enjoyed the rights and privileges of Regular Canons, recognized by civil authority, and were bound by the Rule to bury the bodies of their members, with the corresponding right to erect their own crosses. However, this cannot be said of the new Third Order Associations, established after the publication of the aforementioned Constitutions. These Associations, besides not being recognized by civil authority, are not governed by families of Regular Canons with regard to the admission of members and the observance of the Rule; therefore, although it may be said that they can participate in the rights and privileges of Regular Canons, in practice, or with regard to the exercise of these rights, the Archbishop considers that three things must be kept in mind above all: 1. The general approval of a Rule for the secular Third Order; 2. The statutes of each Association; 3. In every case, the consent of the diocesan Ordinary. Furthermore, the Archbishop adds, in § 14 of the Rule established by the Constitutions *Misericors Dei Filius* of May 30, 1883, for new Congregations of the Third Order, concerning the funerals of deceased members, it is stated: "For the funerals of deceased members of the Third Order, both residents and visitors, if present, they shall gather together and, one by one, recite the third part of the Rosary in suffrage for the deceased. The priests shall pray at the Mass, and the laity, if they can, shall approach the altar, and pray for eternal peace for the deceased Brother." Therefore, it cannot be argued from this provision in the Rule concerning funerals that there is an asserted right to bury the bodies of the deceased in the cemetery; nor can it be deduced from the manner in which the Third Order Association was established. Indeed, if Father Donatus of Vecchio established it solely for the purpose of carrying out spiritual works and for the exercise of religious worship in the Church, there was no mention whatsoever of the claimed right to bury the bodies of the members. Moreover, even during Father Vecchio's lifetime, his own body was transported to the cemetery, not by the Third Order Congregation, but by other sodalities. Therefore, if the obligation to bury the bodies of members in the cemetery for the Third Order of the Church of the Blessed Virgin Mary of Gratias in the city of Manfredonia...

[*Latin ed. p. 245*]

SYPONTINA, OR THE CONFRATERNITY, ETC. 245: It cannot be decreed, neither by the prescription of the Rule, nor by the nature of the Institution, but it is a matter of pure faculty; the Archbishop concludes

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that, for the exercise of this faculty, the consent of the diocesan Ordinary is necessary: and this not only to prevent quarrels and disputes between the members of the Third Order and other Confraternities, which, since they have statutes recognized by civil authority, arrogantly claim precedence over other associations, but also to maintain the members of the Third Order in due obedience, and to restrain the spirit of independence, especially after their open rebellion against the authority of the Archbishop. The Archbishop confirms this with an example from a neighboring Bishop, who denied a certain Association of the Third Order, existing in his diocese, permission to raise a cross and to go outside the church, precisely for reasons of moral order concerning some of the members. Finally, the Archbishop, referring to the total dependence of the members of the Third Order, with regard to correction, visitation, and governance, on the Superior of the regular Order, as invoked by the Father Procurator for associations of the Third Order, observes that, in the absence of religious who can respond in person regarding the order and discipline of the members of the Third Order, it is impossible to achieve the same result through a spiritual director, a secular priest delegated by and dependent on the regular Order. For the Superior, being far from the city of Sypontina, is unable to exercise any vigilance or care over the members of the Third Order, who boast of being masters in their church, who despise all legitimate authority, and whose director they have as a paid employee and is entirely dependent on them, as abundant experience shows. Therefore, according to the Archbishop, there is no other way to avoid these inconveniences, except to decree the full dependence of the members of the Third Order on the authority of the Archbishop himself. These matters having been thoroughly examined, the following were submitted to the Most Reverend Fathers.

[*Latin ed. p. 246*]

246 MANFREDONIA, OR OF THE CONFRATERNITY, ETC. Doubts. I. Whether and how a Secular Sodality of the Third Order of St. Francis, established in the city of Manfredonia, can proceed outside the church to accompany the bodies of Brothers and Sisters, and under its own cross, in such a case. And to the extent that it is affirmative: II. Whether the aforementioned Sodality can precede other confraternities, already existing, in such a case. III. Whether and how the aforementioned Sodality must depend on the jurisdiction of the Archbishop in such a case. RESOLUTION. The Sacred Congregation of Bishops and Regulars, after carefully considering the proposed doubts on March 10, 1893, resolves as follows: To I. Affirmative, with its own banner and veiled arms, and with the habit of the Order, for the designated members only, provided that the Society has been named according to the wishes of the deceased or by his heir, with the association being led by the parish priest from the house of the deceased to the regular church or to the cemetery, so that the deceased may not

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be deposited in the regular church. To II. Affirmative. To III. Affirmative, except for those matters pertaining to internal discipline and direction, according to the decree of the Sacred Congregation of Indulgences of January 31, 1893, and with the understanding: "that the General Superior of the Franciscans should strictly order, as is due, that the Franciscan Third Order Sodality in the city of Manfredonia be restored or organized according to the Pontifical Constitutions, and that he should ensure that harmony is perpetually maintained between the Sodality and the Ordinary." FROM THESE, WE GATHER: I. Secular Franciscans of the Third Order, when considered as a Religious Order, even after the recent Pontifical Constitutions, participate in the rights and privileges of Regular Canons, under certain conditions. II. These conditions regarding the association of funerals are that they proceed with their own banner, veiled arms, and their own.

[*Latin ed. p. 247*]

SYPONTINA, OR CONFRATERNITY, ETC. 247. Those clothed in the habit and accompanied by the parish priest are buried up to the church. III. Provided these conditions are observed, the Sodalitas of the Tertiary Order of Franciscans possesses the right of precedence over any other lay Confraternities, according to the decree of the Holy Congregation of Rites dated May 28, 1886. IV. A Sodalitas of the Tertiary Order, duly established, is not exempt from the jurisdiction of the Ordinary, except in matters of discipline and internal administration, in which it depends on the Regular Superior, according to the decree of the Holy Congregation of Indulgences dated January 31, 1893: concerning question number III, namely, whether the local Bishop can visit Congregations of the Tertiary Order even in Regular houses. The response was: "In matters pertaining to discipline and internal administration, negatively; in other matters, affirmatively; but it is still required that it be duly established, that is, ordered according to the Pontifical Constitutions." S. FLORI, OR OF PARIS. SOLUTION AND RESTORATION OF DAMAGES. March 10, 1893. SUMMARY OF THE CASE. At the end of the month of March 1838, the Abbot Sarrauste, rector of the Orphanage, founded by himself in the year 1868 at Notre Dame de Quezac in Gallia, obtained several concessions from the Congregation of Bishops and Regulars against the Brothers of the Institute or Society of St. Vincent de Paul. He stated that, compelled by personal persecution, he was forced to relinquish the administration of the Orphanage, and in the year 1882, he transferred it to the Superior General of the aforementioned Society, because the aforementioned Brothers, being well acquainted with the Orphanage, had also sought to have a hand in its direction. The administration and direction were transferred according to this law, so that, in the event that it did not proceed correctly, everything would revert to its former state

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with the transfer of the Abbot. Acts.

[*Latin ed. p. 248*]

248 s - CONCERNING THE ORPHANAGE OF SAINT FLOR. The orphanage consisted of 30 hectares of land, 30,000 livres in movable assets, and an annual income of approximately 70,000 livres; the endowment, however, amounted to 20,000 livres. After scarcely four years from this arrangement, the administration of the orphanage fell into disrepair: Members of Saint Vincent de Paul withdrew assets from the orphanage and even took with them sacred objects from the chapel of the institution. Against this conduct of the Brothers, Abbot Sarrauste petitioned the aforementioned Sacred Congregation for the restitution and compensation of damages, through a formal agreement. Regarding this delicate matter, a preliminary report was first obtained from Bishop Saint Flor, and then from the Archbishop of Paris (for in Paris is located the motherhouse of the Society of Saint Vincent de Paul), who also requested and transmitted the opinion of the Reverend Father D'Hulst, President of the Council, commonly known as the "Comte de Patronage," of the institution, regarding the provision of assistance to the orphanage. After considering these elements, along with the observations of the Superior General of the Society of Saint Vincent de Paul, the Sacred Congregation, on February 1, 1889, responded – "It pleases us to seek a concord" – delegating the Archbishop of Paris, together with Bishop Saint Flor, to negotiate a settlement between the parties. Consequently, the matter, previously raised in the form of a question for deliberation, was presented to the plenary assembly of the Most Reverend Fathers, after having been carefully considered beforehand by the Sacred Congregation, with the opinion of one of its consultants, the summary of which is as follows. Synopsis of the Consultant's Opinion. Before presenting his conclusions, the Consultant outlines his deliberations in three sections: in the first, he addresses the arguments in favor of Abbot Sarrauste; in the second, those in favor of the Society of the Brothers of Saint Vincent de Paul; and in the third, he offers a final assessment. Addressing the first section, he recalls that a private law exists, binding the contracting parties to its fulfillment, such that, if it is not fulfilled, an obligation arises in conscience to make restitution.

[*Latin ed. p. 249*]

St. Florus, or the Parisian. 249, and compensation for damages. This is most certain in law. But there is doubt concerning the existence of a burdensome contract between Lord Serrauste and the Brothers of St. Vincent de Paul. This doubt could be dispelled by the fact that the founder, Abbot Serrauste, categorically affirms this: that a priest, being incapable of lying, and with the consent of his adversaries, his assertions must be entirely believed. But, setting aside even the existence of a burdensome contract,

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according to the Counsel, the Brothers could be compelled to restitution and to compensate for damages as unjust wrongdoers. For the Brothers, when the administration of justice was being perverted, were repeatedly instructed by Abbot Serrauste not to destroy the pious work by reversing his direction; but they, in turn, paid no heed to the Abbot's warnings and requests. Therefore, if the Institute was ruined, it is due to the bad faith of the Brothers, and consequently, all damages are imputable to them. Thus far, these things are easily deduced from the account presented by Lord Serrauste to the Sacred Congregation of Bishops and Regulars on March 31, 1888. These are the things that the Counsel presents in defense of the Abbot. Proceeding then to the second point, namely, to defend the rights of the Brothers of St. Vincent, the Counsel refutes the insinuation of Abbot Sarrauste that the aforementioned members had striven or labored to obtain the administration of the Institute. Indeed, this was granted to them, not by the adversary Sarrauste, but by the Committee of Patrons, as demonstrated by the letters of the Committee, and Sarrauste himself does not deny this. Similarly, the Counsel states that the existence of a burdensome contract, whether verbal or written, can be challenged. For an anonymous society was established concerning the assets of the Orphanage, consisting of two members of the administrative council and five Brothers of St. Vincent, but no agreement existed between these and the administrative council, as never existed between them and the founder, Sarrauste. Nor is it permissible to impute the ruin of the Institute to them. Indeed, since the administration of this was being perverted primarily due to the persecution and opposition of the priest Sarrauste, and due to other causes...

[*Latin ed. p. 250*]

250 Saint Flor, or Paris, Brothers considered resigning the administration of the institution to the Council, which refused to accept it; but, urged by the Brothers, because the expenses exceeded the income, the Council, having exhausted all other means, was compelled to liquidate the institution, which was done with due regard to all rules of prudence. Therefore, since no theological fault or even the slightest fault could be found in the Brothers, they cannot in any way be considered unjust or harmful. It is said that the Consultant exaggerated or amplified the active and passive state of the administration when it passed to the Brothers of Saint Vincent. It is asserted that the annual income of the orphanage amounted to 70,000 livres, while, on the contrary, it is clear from the accounting books that it did not exceed 8,400 livres. A passive debt of 20,000 livres is mentioned, but the inventory shows that the real estate debt amounted to 27,000 livres. The Brothers are accused of removing valuable furnishings from the chapel, but the inventory proves that these items did not exist. Regarding the arbitral judgment proposed by Abbot Sarrauste, the Consultant rightly states that the members of the Society of Saint Vincent rejected it. For the Brothers had

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received the institution from the Council, which had approved its management by its actions and words; therefore, no legal relationship could exist between them and Abbot Sarrauste. Having considered these and other matters, drawn from a memorandum by the Superior General of the Society of Saint Vincent de Paul, the Consultant concludes that full credence must be given to it, because the assertions of the Superior are supported by facts and irrefutable documents. Regarding the third point concerning the examination of witnesses, the Consultant observes that they are reduced to the Bishop of Saint Flor, the Archbishop of Paris, and Father D'Hulst. Indeed, the first two witnesses neither favor Abbot Sarrauste nor oppose the Brothers of Saint Vincent. Rather, the Consultant states that emphasis should be placed on the third witness, whose testimony can be decisive in the present controversy, because: 1. the witness's personal qualities are publicly known and superior to all exceptions; 2. because Father D'Hulst was the President of the administrative council.

[*Latin ed. p. 251*]

ST. FLORIAN, OR PARIS. 251 of the Orphanage, hence well informed; 3. because the Archbishop of Paris, when transmitting to the Holy Congregation the petition of Lord D'Hulst, along with other documents, stated that the controversy could easily be resolved from this itself. However, Archbishop D'Hulst, after examining the report and conclusions of the Superior General of the Brothers of St. Vincent, maintained that they were true and should be accepted. He further clarifies that the members are not guilty of bad faith in the management of the orphanage, in which they spent 40,000 livres of their own; therefore, the accusation made by Abbot Sarrauste should rather be considered as an odious insinuation. He does not impugn the honesty and good faith of the members themselves, but rather believes that the ruin of the orphanage stemmed from the reason for which it was founded and from the foreign ideas that Sarrauste had about it. Therefore, while its destruction is indeed regrettable, it cannot in any way give rise to a judicial action or an arbitral judgment. With these and other points outlined in his petition, the Consultor concludes that the Brothers of St. Vincent de Paul are in no way obligated to grant the requested restitution and compensation for damages. With this opinion in mind, it was deemed appropriate in the general meeting of the Fathers to clarify the following question: Whether and in what way are the Brothers of St. Vincent de Paul obligated to restore the sums requested by Father Sarrauste and to compensate for damages in this case? RESOLUTION. The Holy Congregation of Bishops and Regulars, on March 10, 1893, responded: Negatively in all respects, and furthermore.

[*Latin ed. p. 252*]

252 FROM THE DECREE OF THE HOLY CONGREGATION OF INDUL-

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GENCES, by which an indulgence of one hundred days is granted to those who recite the following prayer in honor of the Most Holy Heart of Jesus.

Brno.

Most Reverend Father,

Most Noble Lady Giuseppina Merry del Val, ardently desiring to see the love towards the Most Holy Heart of Jesus extended as much as possible, prostrates herself before the Holy Feet and implores Your Eminence to grant some indulgence to all the faithful who devoutly recite the following prayer:

Noble Lady Giuseppina Merry del Val, greatly desiring that, as far as possible, love may be increased towards the Most Holy Heart of Jesus, she humbly prostrates herself before Your Eminence and prays that she may be granted some indulgence to all the faithful who devoutly recite the following prayer:

"O Heart of Jesus, burning with love for us,

Inflame our hearts with your love."

"O Heart of Jesus, burning with love for us,

Inflame our hearts with your love."

And may God.

His Holiness Pope Leo XIII, in an audience held on July 16, 1893, before the undersigned Secretary of the Holy Congregation for Indulgences and Sacred Relics, benignly granted to all Christian faithful of both sexes, who, with at least a contrite heart, and devoutly recite the aforementioned prayer, an indulgence of one hundred days, applicable also to the souls of the departed, to be gained once a day.

This decree is valid forever, without the need for any brief, notwithstanding any contrary provisions.

Given in Rome, from the Secretariat of the aforementioned Holy Congregation, on July 16, 1893.

† R. IGNATIUS CARD. PERSICO, Prefect.

† ALEXANDER, Archbishop of Nicopolis, Secretary.

[*Latin ed. p. 253*]

253 APPENDIX III. EXHIBENS ACTA SEDIS APOSTOLICAE; QUAE AUT IAMDIU EXARATA SUNT AUT QUAE TEMPESTIVO LATUERUNT EPHEMERIDUM MODERATOREM.

Sacra Congregatio Sacrorum, 8 Iulii 1891. – Vicariatus Apostolicus Nyanz. – Dubia quoad usum privilegii Pauli.

1. Vir fidelis habet mulierem infidelis, quae, quamquam vult converti, nullo modo consentit cum eo habitare. Quaestiones:

I. An vir uti privilegio Pauli potest, et, post interrogationem de voluntate cohabitationis, ad alias nuptias transire possit?

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II. An talis vir, si adhuc catechumenus sit, potest ad baptismum admitti et tunc privilegio uti?

2. Mulier catechumena, cuiusdam viri fidelis, quam iste in sua propria infidelitate duxit, ab eo per vim ablata est, ita ut nulla spes eam redimendi vel recuperandi affulgeat. Mulier quidem vult converti, et vellet quidem cum eo cohabitare, sed nec religionem colere, nec cohabitare potest. Quaestiones:

I. An talis vir privilegio Pauli uti potest, et aliam uxorem ducere, ne scilicet caelebs manere cogatur?

II. Si ipse eam vendidit, et nullo modo eam redimere potest, an item privilegio uti potest?

Responsum:

Ad 1. Affirmative ad utramque partem, dummodo uxor in infidelitate permaneat.

Ad 2. – Ad I. Quatenus prima uxor in infidelitate permaneat, permitti posse viro ut matrimonio cum secunda muliere coniungatur. – Ad II. Quatenus uxorem vendiderit ante baptismum, affirmative.

Sacra Congregatio Sacrorum, 10 Decembris 1885. – Dubia quoad matrimonia in impubertate contracta.

1. Quando coniuges in infidelitate relicti matrimonio nondum consummato fidem amplecti nolunt, matrimonia eorum in impubertate contracta, poteruntne haberi tamquam mera sponsalia de futuro pro coniuge ad fidem converso?

[*Latin ed. p. 254*]

254 APPENDIX III. 2. When the contracting parties are adult neophytes, is a double or no interpellatio (inquiry) required to dissolve their marriage, or is a single inquiry sufficient, namely, do they wish to be baptized? R. To 1. Provided that it is established that there was no impediment of natural or divine law, and that the contracting parties have given true consent, there is no question of a betrothal, but of a true marriage. To 2. As far as such marriages are proven to be invalid due to some impediment of natural or divine law, and especially due to a lack of true consent, there is no place for an interpellatio. Otherwise, an interpellatio must be made as to whether they wish to be baptized; and if the answer is negative, whether at least they wish to cohabit without offending the Creator. In particular cases, if a serious difficulty arises, recourse should be had to the Holy See. S. C. S. Office of January 15, 1874 — Doubt regarding a clandestine marriage in the Vicariate Apostolic of Sutchu. When baptized faithful wish to enter into marriage, and a missionary is present, then they contract before him, and receive the solemn blessing. If, however, he is far away, or if there is no suitable place or time, and the Council of Trent has not been promulgated in those parts, it is permitted to all, provided there is no other impedi-

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ment, to contract before present Christians. When the missionary returns, the consent is not renewed, at least not ordinarily, and the blessing is not usually given to them. R. The faithful who, in the absence of a missionary, enter into marriage in China before Christians only, where the law of Trent has not been promulgated there, should not be disturbed; hence, the marriages contracted in the regions of China solely by the mutual consent of the contracting parties are true, and therefore indissoluble, as has been declared since the year 1665, and that, even if that law were promulgated, marriages would be valid in the presence of only two witnesses, whenever in the place where the marriage is contracted, or in a nearby place to which it is possible to go without danger, there is no parish priest or other secular or regular priest appointed by the Bishop. The Apostolic See has also repeatedly answered that. Furthermore, so that the dignity of the Sacrament may not be diminished, His Holiness wished to urge the faithful to refrain from contracting marriages in the absence of a missionary, and to seek his blessing, but with the prior declaration by the missionary that such a blessing has no bearing on the validity of the marriage.

[*Latin ed. p. 255*]

APPENDIX III. 255 From the instructions of the Sacred Congregation of the Holy Office, July 6, 1817. (Addressed to the Prefect of Missions for Martinique, Guadeloupe, etc.) Concerning clandestine marriages. We bring forward the opinion of theologians and canonists, numerous resolutions of the Sacred Council, and finally, the recent decision of the Most Holy Pope Pius VI, in his brief, addressed to the Bishop of Luçon in Gallus, dated May 28, 1793, which begins with the words "Perlectae sunt" § 3, in which it is stated that the Tridentine law, with regard to its effect, remains in force even in those places where it has been promulgated, and is observed, whenever it can be observed, or cannot be observed because insuperable dangers and obstacles arise: this occurs when either there are no priests, or access to them is easy, and not safe. However, in these cases, the conduct of the spouses in presenting themselves as soon as possible to their own parish priest, or to one holding his office, in order to receive the nuptial blessing, is to be commended, not because this is necessary for the validity of the marriage, which has already been validly contracted in their absence, but rather so that they may obtain the graces and special helps attached to this sacred rite, and, as soon as they are able, and in the manner in which they are able, they may fulfill the Church's precept of having their marriages blessed by their own priest, which have already been validly begun without him. It will not be superfluous here to also mention that, before the Tridentine decree, clandestine marriages were considered invalid. The celebration of marriages without a priest and witnesses was considered unlawful and subject to sin. This is evident not only from the Tridentine Decree itself (on the reform of marriages, Session XXIV), but

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also from the testimonies of numerous Fathers and Doctors of the Church, from some general and provincial councils, and especially from the Lateran Councils III and IV, as well as the Council of London and the Council of Toledo (1); from the responses of Nicholas I to the consultations of the Bulgarians, etc. Therefore, in those places to which the Tridentine law does not extend, either because it has not been promulgated at all, or because it has fallen into disuse, or because it is impossible or difficult to observe, a marriage, although not contracted in accordance with the prescribed form, is not invalid and null, but it will nevertheless be unlawful and culpable, either because of the actual violation of the Church's law (when this can easily be observed), or because of the comparison to those who do not even intend to observe it, when the opportunity arises. (1) Ap. Drouen, *De Re Sacramentaria*.

[*Latin ed. p. 256*]

256 APPENDIX III. Hence it came to pass that the Holy See, in an instruction which it sent in the year 1780 to the Apostolic Vicar of Sutchuen, declared, with the consent of the superiors, that a renewal of the marriage vows before the priest was not necessary, whenever the marriage had been validly contracted outside of his presence; but at the same time, it added that "His Holiness wished the faithful to present themselves to the parish priest, and to request from him the blessing," provided that a declaration be first made by the missionary, "that such a blessing does not in any way affect the validity of the marriage." Therefore, the opinion of Father Francis of Brenno is not without foundation, who maintains that those are not capable of absolution who refuse to go before the parish priest to receive from him the nuptial blessing, although they can validly contract the marriage without it, and with that blessing, they show themselves to be properly disposed to receive sacramental absolution, because of their obedience to the will of the Church, and indeed, as he says, in a very serious matter; from which he concludes: "Those who do not wish to obey the Church, are not only incapable of sacramental absolution, but, with a perverse will, they deserve to be utterly rejected by the Church, just as the ethnics and publicans are rejected, according to the oracle of our Lord Christ in Matthew 18." From the Instruction of the Holy Congregation, December 14, 1859. — Regarding the Archbishop of Trent, the Tridentine law concerning clandestine marriages is local and personal. The Tridentine law concerning clandestine marriages must certainly be promulgated in each parish, according to its judgment; but once promulgated, and with its continued observance, the law affects the territory, and, speaking properly, is local and personal for all: inasmuch as it is local, it affects the territory and obligates those who are to be joined in marriage there; inasmuch as it is personal, it obligates those who, having a domicile or quasi-domicile in the place where the Tridentine decree has been promulgated and is in force, wish to contract marriage

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in another place where it is not in force. Nor can they, by a subsequent division of the aforementioned territory, or by being divided into parts of other parishes, or by the newly erected parish, be freed from the law that already possesses the territory. Furthermore, the continued observance of the Tridentine decree justly demonstrates the legitimacy of its promulgation; it is also commonly held.

[*Latin ed. p. 257*]

257 APPENDIX III. Letter from Pope Pius VIII, March 25, 1830 (to the Archbishop of Cologne, and to the Bishops of Trier, Paderborn, and Münster) — Regarding mixed marriages. In another letter, sent last year to our predecessor, Pope Leo XII, you, Venerable Brothers, explained the difficulties in which you find yourselves, due to the fact that a law was recently enacted in this region, according to which children of both sexes in mixed marriages are to be educated in the religion of the father, or at his discretion, and that priests are forbidden to demand any promise from those entering into such marriages regarding the religious upbringing of the offspring. And indeed, we ourselves have been deeply saddened by the distress that this excellent Pontiff felt for your troubles, which these letters explained more fully. But now we are even more concerned, since it has been reserved to our inscrutable Divine Providence to give you answers that our predecessor was prevented from providing by death. However, it is entirely permissible for this Holy See to overlook all those things that you have indicated as being required for the execution of this law in these regions. But two things greatly encourage us, namely, the zeal of you and your priests, who are under your authority, for defending the doctrine of the Church and for observing its rules, which you also demonstrated in the letters you sent to Leo XII. And also, the leniency of the Most Serene King of Prussia, who, as you also stated, was in a certain sense the author of your approach to this Holy See, so that you might frankly explain the true state of affairs to it, and that it might offer you counsel regarding your anxieties. Therefore, we rightly trust that you will not only fully comply with these our decrees, but also that the Most Serene King himself will not fail to support you, if, while sincerely cooperating with him in civil matters, you nevertheless observe the sacred rules of the Catholic religion in those matters which do not concern civil effects of marriage, but which touch upon the very sanctity of the same marriage, and which regard the religious duties of the spouses. Therefore, coming closer to the matter at hand, it is unnecessary for us to instruct your Brotherhoods in the most profound knowledge of the Church's teaching regarding mixed marriages, of which we are speaking. Therefore, it is not unknown to you that the Church itself abhors these marriages, which bring with them no small amount of corruption and spiritual danger; and therefore, this Apostolic See has always diligently striven to ensure that the canonical laws prohibiting such

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marriages are religiously observed. Although it is known that the Roman Pontiffs have sometimes granted dispensations from that most holy prohibition (cf. *ius*, Tom. XXVI, fase. O C OY. 17).

[*Latin ed. p. 258*]

258 APPENDIX III. These things are done, indeed, for grave reasons, and are done with great reluctance; and they are accustomed to add to their dispensations a clearly expressed condition regarding the necessary precautions to be taken before marriage, not only so that the Catholic spouse may not be perverted by the non-Catholic, but rather so that he may be aware that he must, as far as he is able, strive to lead the other away from error; but also so that the children of both sexes born from the same marriage shall be entirely educated in the sanctity of the Catholic religion. You know, V.V. F.F., that all these precautions aim to ensure that both natural and divine laws are observed in this matter, since it has been demonstrated that Catholic persons, whether men or women, who enter into marriage with non-Catholics, thereby expose themselves and their future spouse to the danger of perversion, not only violating canonical sanctions, but also directly and gravely sinning against natural and divine law. And therefore, you now understand that we, too, would be most grievous sinners before God and the Church if we were to consent to such marriages being contracted in these regions, either through our own actions or through those of the priests of your dioceses, by which, even if not in words, they would nevertheless be implicitly approved. Therefore, we, highly commending your zeal in striving to prevent those entrusted to your care from entering into mixed marriages, earnestly exhort you, in the Lord, to continue diligently in the same endeavor, with all patience and instruction, so that you may receive a rich reward in heaven for your labors; and therefore, whenever a Catholic woman wishes to marry a non-Catholic man, she must be carefully instructed by the Bishop or priest regarding the opinion of the canons concerning such marriages, and she must be warned of the grave sin she will commit before God if she dares to violate them; and it is especially important to urge her to remember that firm dogma of our religion which states that - no one can be saved outside the true Catholic faith; and therefore, she must recognize that she will be acting most cruelly towards the children she expects from God if she enters into such a marriage, in which she knows that their education will be subject to the will of the non-Catholic husband. These salutary warnings should also be repeated, as prudence suggests, especially at the time when the day of the wedding approaches, and when, through customary announcements, it is inquired whether there are any other impediments that prevent the marriage. If, in some cases, the pastoral efforts of these sacred pastors should prove in vain, then, of course, the Catholic woman must be refrained from, and any specific censures directed at her must be avoided, so that no disturbance

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may arise, and so that more serious evils to the Church may be averted; but, on the other hand, the Catholic priest must also refrain not only from celebrating marriages that are to follow, even with some sacred rite, but also from any

[*Latin ed. p. 259*]

APPENDIX III. 259 In practice, it has seemed necessary to approve of [mixed marriages] in certain circumstances. Regarding this matter, it has been tolerated only in some places that parish priests, who are compelled to be present at these marriages in order to avert more serious harm to the Catholic faith, should allow them to be celebrated in their presence (provided, of course, that no other canonical impediment exists), so that, after hearing the consent of both parties, they may, for the sake of their office, record the valid act in the marriage book, but they must always take care not to approve of such illicit marriages by any of their actions, and much more so, not to mix them with sacred prayers or any ecclesiastical rite.

Now, it follows that I must respond concerning those who have dared to enter into mixed marriages without the presence of a Catholic priest. And on this matter, We have decided that it is necessary to avert, as far as possible, the scandals that arise from such marriages; also, that those Catholics who live in such unions may more easily be led to expiate their sin with salutary tears of penance; and finally, that there may be a certain rule for all in the future, by which to judge the validity of marriages entered into in this way.

Indeed, with regard to unions that have been entered into up to the present time without the presence of a parish priest, We shall delegate to Your Congregations the necessary faculties, so that you may, to a great extent, remedy the evils that have arisen from them. Now, however, through these letters, We wish and command that mixed marriages, which may occur in your dioceses after this date (that is, from March 25, 1830), if they are not celebrated according to the form prescribed by the Council of Trent, and if no other canonical impediment prevents them, shall be considered valid and true marriages, as We, by Our Apostolic authority, declare and decree that such marriages are true and valid, notwithstanding anything to the contrary. Therefore, Catholic individuals who shall enter into marriages in this manner in the future, provided that no other canonical impediment prevents them, shall be taught by the pastors that they have entered into a true and valid marriage.

Furthermore, it is the duty of the pastors to admonish, at an opportune time, all Catholics, especially Catholic women, who have entered into valid, but illicit, marriages with non-Catholics, in charity and with the patience of Christ, so that they may do penance for this grave and heinous sin, and fulfill their obligations, especially those they owe to their children, namely,

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to diligently and carefully care for the Catholic education of all of them.

After these things, We deem it superfluous to exhort, My Brothers, that you attend to how carefully these matters must be handled, lest offense be given to the Catholic religion, since Your Congregations have thoroughly learned this.

[*Latin ed. p. 260*]

§60 APPENDIX III. And it has now been made clear to us. Therefore, act in this way, and let the pastors also be instructed to act in this way, so that all may see that Catholic priests are animated by nothing other than the spirit of fulfilling their office, and that in matters pertaining to civil order, they observe the royal laws not out of a servile fear, but out of a sense of duty, etc. (1). His Holiness Pope Pius VIII, in letters dated March 25, 1830, addressed to the Archbishops of Cologne, and to the Bishops of Treves, Muenster, and Rome, had already indicated how deeply grieved he was to learn of the grave difficulties in which they found themselves, because the civil law enacted in their regions in the year 1825 had decreed that the children of both sexes born from mixed marriages should be educated in the religion of the father, or certainly at his discretion, and had forbidden priests from demanding any promise from those entering into such marriages regarding the religious education of the future offspring. In no way could His Holiness depart from that constant principle by which the Apostolic See has always been guided, namely, that the sacred canons, which severely prohibit such mixed marriages, which are full of deformity and spiritual danger, should be religiously observed. Much less could he depart from that most important principle established by the same See, by which the Roman Pontiffs, when sometimes (indeed, with reluctance, and only for grave reasons) they permitted such marriages, were accustomed to add to their dispensations the express condition of certain precautions being taken before the marriage, not only so that the Catholic spouse might not be perverted by the non-Catholic, but rather so that he should be aware that he must, as far as he is able, strive to draw the other away from error, but also so that the children of both sexes born from such a union should be entirely educated in the sanctity of the Catholic religion. For it is not only ecclesiastical law, but also natural and divine law, that forbids a man from entering into marriage and exposing himself or his future spouse to the danger of perversion; hence, it is clear that all the aforementioned precautions are to be employed in order that this natural and divine law may be safeguarded. Therefore, after duly praising the aforementioned prelates for the pastoral zeal with which they have endeavored to dissuade those entrusted to their care from entering into an illicit union with non-Catholics in marriage, he earnestly exhorted them to continue to labor diligently and prudently in this regard; at the same time, he also prescribed certain things in those same letters, which seemed likely to alleviate the difficulties of

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their Lordships, and which pertained to bringing back to better intentions and to salutary repentance those Catholics who were falling into those illicit marriages. At- (1) A more recent instruction regarding mixed marriages was issued in VI, 456.

[*Latin ed. p. 261*]

APPENDIX III. 261 And He declared that He placed great hope not only that the Bishops would religiously observe the rescripts issued by the Holy See, but also that the Most Serene King would, for his own justice and for the sake of the Catholics subject to him, readily show favor, if the pastors of souls, sincerely complying with His Majesty in civil matters, should nevertheless observe the sacred rules of the Catholic religion in this matter, which concerns the sanctity of marriage and the religious duties of spouses. And now, the Supreme Pontiff greatly fosters both these hopes, wishing to communicate to the aforementioned four Bishops, through this instruction, certain other things which He has decreed to be tolerated or dispensed with concerning the same matter. And first, with regard to marriages which have been contracted up to now in the four dioceses of Cologne, Treves, Paderborn, and Muenster, contrary to the form prescribed by the Council of Trent, the Most Holy Lord has already indicated to those Bishops in His letters that He will grant them suitable faculties, so that they may, at least in part, remedy the evils arising from these. Indeed, the Supreme Pontiff, remembering that He is the Vicar of Jesus Christ, who came to seek and to save that which was lost, considered the unhappy condition of those Catholics who, living in marriage, are invalid before God and the Church, but are valid before the civil laws of the place, and are in great difficulty in returning to a state of grace, and moved by mercy towards them, He has decreed to open to them an easier way to penance. Therefore, to the Archbishop of Cologne, and to the Bishops of Treves, Paderborn, and Muenster, it is signified through this instruction that His Holiness grants them the necessary and appropriate authority, by virtue of which each of them, as a Delegate of the Apostolic See, can, in his diocese, confirm, and even heal marriages contracted up to the present day between a Catholic party and a non-Catholic party, which are invalid because the form prescribed by the Council of Trent was not observed in contracting them. And since some of the mixed marriages contracted up to now are also invalid for other reasons, namely, canonical impediments, therefore the Most Holy Lord adds to these four Bishops the full power, so that each of them, as a Delegate of the Apostolic See, can dispense from those impediments in his diocese, provided, of course, that it concerns impediments from which the Apostolic See is already accustomed to grant dispensation for grave reasons; and provided that the dispensation itself pertains to healing mixed marriages, also contracted up to the present time. His Holiness gladly grants this power to the aforementioned Bishops, because He holds

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a high opinion of their virtue, and He is fully confident that they will use this broad power with prudence.

[*Latin ed. p. 262*]

262 APPENDIX III. Furthermore, the Supreme Pontiff declares that these same Bishops can exercise this power even through other suitable ecclesiastical men specifically delegated by him. However, there are certain matters pertaining to the use of this authority, concerning which His Holiness has commanded the Bishops, and their delegates, to be admonished. Moreover, it is certainly necessary that, in each individual case, they ascertain whether a marriage, which was invalid, can be restored through a new expression of consent by both parties, that is, through a consent that is given in due form, and to which the precautions customary with the Apostolic See for mixed marriages are attached. And indeed, they should themselves ensure this renewal of consent only when, after carefully considering all the details of each particular case, they do not foresee any danger of a more serious evil arising from the matter being requested and carried out; on the contrary, if they know that such serious evils are to be feared, it is permissible for them to heal the marriage at its root. Secondly, whenever in such cases they heal a marriage at its root, they are absolutely obligated to admonish the Catholic party about the gravity of the sin committed by them, and to impose a salutary penance for that sin, and above all, to exhort them in the Lord to diligently fulfill their obligations, and especially those concerning the education of their children of both sexes. Thirdly, the Bishops and their delegates must abstain from imprudently confirming marriages that are foreseeably to be dissolved before the civil law, by a sentence of a lay magistrate, pronouncing a divorce between the parties. And this, the Most Holy Lord N. has decreed to be granted to Catholics who, in the aforementioned four dioceses, have contracted mixed and invalid marriages with non-Catholics, in order to more easily lead them to the path of salvation. However, this mode of indulgence must in no way be applied to those who in the future dare to enter into mixed and invalid marriages, since the hope of an easy remedy might lead more people to sin. Furthermore, the Supreme Pontiff, in the letters given to the same Bishops, which are mentioned above, has already declared that mixed marriages entered into in the aforementioned four dioceses will henceforth (that is, from March 25, 1830) be considered true and valid marriages, even if they are contracted contrary to the prescription of the Council of Trent, provided that no other canonical impediment prevents them. Indeed, the Supreme Pontiff knows the very serious troubles in which these four Bishops are presently involved, arising in part from the fact that Catholics, shamefully demented by a mad love, desire to contract marriages with non-Catholics, and that priests are troubled by them in this matter, refusing to connive at it. Nevertheless, the Holy Father exhorts these pastors in the Lord to oppose

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the constancy of their pastoral duties to this wickedness; nay, rather.

[*Latin ed. p. 263*]

APPENDIX III. 263 and to bring them back to sounder counsels. But if, in any case, these sacred studies of the pastors should fail, and a Catholic person cannot be dissuaded from entering into a marriage with a non-Catholic relative, and if the impediment, the relaxation of which is required for validly contracting marriage, pertains only to more distant degrees, namely, to the third or fourth degree of consanguinity, or of affinity, or to spiritual relationship (excepting that which exists between the baptizer and the baptized), or finally, to public honor arising from betrothal: then it is necessary for the Bishop himself to consider whether there is a just and urgent reason for granting a dispensation, and whether that dispensation is such that it does not concern merely private individuals, but the public interest of the Catholic religion itself, and it is also necessary to implore Him fervently with prayers for the light of the Holy Spirit, so that He may then, in this matter of such importance, adopt the course of action which He deems most pleasing to the Lord. Indeed, if any of the four Bishops mentioned above, moved by the same gravity of the cause, has granted a dispensation for mixed marriages from any of the aforementioned degrees (but not from other degrees, nor from any other impediment), then the Supreme Pontiff has never approved of such an action; however, He will tolerate it, albeit with a patient spirit, provided that such a dispensation has been granted by the Bishop within a time soon to be explained, and that all other things are observed as will likewise be declared. Namely, 1. Since the Holy See has already accustomed itself to delegate to the same Bishops other faculties for contracting marriages between Catholics, for a period of five years, His Holiness declares that this tolerance shall also last only for five years, beginning from this day, March 27, 1830; and so that, when those faculties, which are usually delegated for marriages between Catholics, are granted again for another five years, this tolerance shall not be considered as prolonged, unless it is repeated with a new act, and with expressly stated words. Furthermore, 2. His Most Holy Lordship has also decreed that whenever a dispensation for a mixed marriage is requested within the degrees covered by this tolerance, the Bishop may not grant it unless, after having taught the Catholic party what the teaching of the canons is regarding such mixed marriages, and after having earnestly and diligently exhorted them to observe those same canons religiously, and after having especially warned them of the most grievous sin, by which they will become guilty before God, if they dare to contract such a marriage without first giving due assurance of the upbringing of both sexes in the sanctity of the Catholic religion. 3. But if, in any case, (may God avert it), it should happen that the Bishop, after such instructions and warnings, has

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not produced any effect on the Catholic

[*Latin ed. p. 264*]

264 APPENDIX III. If, by reason of his wicked design, a man seeks to prevent the woman from entering into marriage, and the matter is brought before him, he shall judge it necessary to grant a dispensation, even if the proper caution regarding the upbringing of Catholic children is not present; His Holiness has decreed that, even in such cases, the Bishop himself cannot grant a dispensation, unless it be done by a written decree, or by letters delivered to the Catholic party, in which the impediment that prevents the marriage is clearly stated; therefore, in this case only, it is permissible to relax the law in order to prevent more serious scandals, and thus the marriage will indeed be true and valid, but nevertheless, the Catholic party will commit a very grave sin by entering into it contrary to the rules of the Catholic religion. Furthermore, since the same marriage is contracted illicitly in this way, not only must one abstain from any ecclesiastical rite pertaining to the marriage itself, but also from any other act by which the priest might seem to approve of it, as is prescribed in the aforementioned letters of His Holiness. After these things, His Holiness, prostrating herself before the feet of the Crucifix, declares that she grants the aforementioned tolerance only for the reason, or rather, to prevent more serious inconveniences to the Catholic religion. Moreover, this same tolerance will sufficiently protect the Bishop in his conscience, provided that he does what, with the light of the Holy Spirit, he deems to be expedient in the Lord, and that he observes all the things that have been said with religious care. Finally, His Holiness warns the Bishops, and earnestly implores them in the Lord, to see to it that, through their actions towards others, illicit mixed marriages are not contracted, so that the memory of the canons condemning such marriages may not be weakened among the Catholic people, and so that the constant effort of the Holy Mother Church to turn her children away from these marriages, to their own detriment, may not be diminished. Henceforth, it will be the duty of Bishops, and of other sacred pastors who are under them, to devote themselves with renewed zeal to instructing, both privately and publicly, those entrusted to their care, in the doctrines and laws of the Church pertaining to such marriages, to prudently and diligently remind them of these things, and to encourage their observance. From the Instructions of the Sacred Congregation of the Holy Office, September 16, 1824 (to the Bishop of Quebec). — A doubt arises concerning the reception of a woman into the Church who has married an unfaithful woman to a heretical man, with regard to receiving baptism. Doubt 5. A woman who has married a heretical man is asking to be admitted to Baptism. The husband does not prevent her from receiving it, and he professes the Catholic religion, but he does not want to become Catholic himself. The question is: how should a Catholic missionary act?

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Should he baptize the woman, allowing her to remain with this heretical husband before an un-Catholic minister?

[*Latin ed. p. 265*]

APPENDIX III. 265 Should she contract marriage? Should baptism be denied to her, thereby giving her an opportunity to receive it from a heretical minister? Should she be baptized and married to a heretical man, which clearly implies communion in divine matters? R.... To question 5. The missionary, in the case in question, must instruct the woman about the nullity of the prior marriage, entered into in infidelity with a heretical man, who, being subject to the laws of the Church by Baptism, was an impediment due to the disparity of cult. And if she is found to be properly disposed, he can admit her to baptism, and also, if he has the power, he can grant her a dispensation, so that, after baptism, she may lawfully marry the same heretical man, if nothing else prevents it. For with regard to the validity of marriage, she would already validly have contracted it in the provinces of Quebec and Canada, due to the extension of the declaration of Benedict XIV, made by Clement XIII on November 4, 1741. However, nothing prevents the aforementioned woman from being lawfully baptized, since, as is stated, she wishes to profess the Catholic faith, and the man himself consents to her religion. Furthermore, there would not be a pressing reason for granting her a dispensation to marry a heretical man, because it must always be prudently feared that, if the dispensation is denied, she might be turned away from receiving baptism, or that she might receive it from an un-Catholic minister, before whom she would also enter into marriage; which must never be permitted. It would not be forbidden for a Catholic priest to assist at such a marriage. For, by the concession of an Apostolic dispensation, it would become lawful, and therefore, the presence of a priest would also be lawful. However, as Benedict XIV notes in *De Syn. Dioec.*, book 6, chapter 5, section 4, in those places and regions where such marriages (namely, between Catholics and heretics) are sometimes permitted, it is certainly advisable that the Bishop, in order to preserve the dignity of the Church, prudently and appropriately prescribe the rites to be observed in the celebration of such marriages. And above all, the Bishop must keep in mind, and, as far as possible, ensure that the practices and rules usually prescribed by the Holy See are observed when, for serious reasons, dispensations are granted in such marriages, namely: that the marriage be celebrated before a priest and witnesses outside the church; and (omitting the nuptial blessing and all sacred rites); that the Catholic party be seriously reminded of the obligation she has, which never ceases, to strive for the conversion of her spouse and the education of both sexes in the Catholic religion; and finally, that the education of the Catholic

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children be secured even by a sworn agreement.

[*Latin ed. p. 266*]

266 APPENDIX III. Instruction of the Sacred Congregation of the Holy Office, February 17, 1864 – concerning mixed marriages. It is not unknown that in certain places, a minister of the heretics acts as a mere civil magistrate, before whom spouses often appear, or even ought to appear, for political reasons, namely, so that the spouses may be considered civilly honest and their offspring legitimate. Then, when urged by the heretics, or when civil law prevails, it is not improbable that the Catholic party, together with the heretical party, may appear before, or after, the marriage contract, even before a minister addicted to heresy, solely to fulfill a civil act. Indeed, concerning a doubt previously expressed in these terms: "Whether a Catholic may lawfully ratify a marriage before a heretical minister, with the urging of the heretics, if he is contracting with a heretical party, if no profession of the heretical rite is made or inferred from this, and if whatever the heretical minister does in this case is merely a civil and political requirement, and is considered as such," this Holy Congregation responded: Affirmative. For it is true that whenever the heretical minister is considered as being addicted to the sacred rites, and as performing the office of a priest, it is not permissible for the Catholic party, together with the heretical party, to give their matrimonial consent before such a minister, because it would be used to complete a certain religious ceremony, and the Catholic party would be associating itself with a heretical rite; hence, there would arise a certain implicit adherence to heresy, and therefore it would be altogether illicit to have communion in divine matters with heretics. Therefore, although this pernicious custom has taken root, so that it cannot be easily corrected by the clergy, it must nevertheless be eradicated with all diligence and zeal. And indeed, Benedict XIV openly teaches that it is not permissible for those contracting marriage to appear before a minister addicted to heresy, insofar as he acts as a minister addicted to the sacred rites, and that the contracting parties would sin mortally, and must be warned. "Therefore, it is fitting that pastors and missionaries, instructed and warned by you, should teach the faithful, both in public catechisms in churches and in private instructions, about the constant doctrine and practice of the Church, so that they may be prudently dissuaded from mixed marriages, as far as possible; but if not, they should absolutely abstain from celebrating marriage before a heretical minister addicted to the sacred rites, which is in every way illicit and sacrilegious." Thus, the response was given to the Ordinary of Cattolica under the date of April 21, 1847. Furthermore, let the pastors know that if they are questioned by those contracting marriage, or if they certainly know that they will approach a heretical minister addicted to the sacred rites to give their matrimonial consent, they cannot remain

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silent, but must warn them.

[*Latin ed. p. 267*]

APPENDIX III. 267. They ought, therefore, to be warned by the same parties concerning the most grievous sin which they commit, and the censures into which they incur. However, concerning grave evils to be avoided, if, in any particular case, the parish priest has not been consulted by the parties, whether it is permissible or not to approach a heretical minister, and if no explicit declaration is made by the same parties concerning approaching a heretical minister, they should nevertheless consider that they may perhaps approach him in order to renew their matrimonial consent, and furthermore, considering the circumstances present in the case, they should foresee that a warning will certainly not be helpful, indeed, it will be harmful, and thus the material sin will be converted into formal guilt: then they should remain silent, provided that the scandal is removed, and provided that all other conditions and precautions required by the Church are duly observed, especially concerning granting the Catholic party the free exercise of religion, and also concerning the entire offspring being educated in the Catholic religion. But if, finally, the consent is to be renewed before the parish priest, after it has already been given before a heretical minister, and this is publicly known, or is notified to the parish priest by the parties themselves: the parish priest shall not intervene in this marriage, unless, as is presumed to be the case, the Catholic party, having repented of the act, having first received salutary penances, duly obtains absolution from the censures incurred. Therefore, the Holy Congregation places great confidence in the Lord that you will adhere prudently and firmly to the foregoing, so that the inviolable doctrine may be preserved, the morals of Catholics may correspond to the faith, apprehended damages may be avoided, and the faithful, strengthened by doctrine and example, may proceed along the paths of justice. Thus, by Decree given in the general Congregation of Emorum and Romanum DD. S. R. E. Cardinals, General Inquisitors, on the fourth day of the week, February 17, 1864. From the Encyclical Letter of the Sacred Congregation of the Holy Office, June 7, 1867, to the Bishops of England and the United States of America, concerning the indications for proving quasi-domicile. Frequently, controversies have been brought before this Apostolic See concerning the marriages of those who, belonging to places where the decree of the Council of Trent concerning clandestine marriages was published, move to a place where it was not published, so that they may more freely enter into the marital bond, without those difficulties which impede them in their homeland. Hence, very serious questions arise concerning the validity of these marriages, and at the same time, very serious inconveniences often arise, which not only trouble the minds of the sacred prelates in judging, but also greatly disturb

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their pastoral zeal.

[*Latin ed. p. 268*]

268 APPENDIX III. Indeed, it is certain that those marriages, of which we are speaking, would be invalid, if the canonical prescriptions regarding quasi-domicile, by those who have departed from a place where the law of Trent concerning clandestine marriages is in force, and who go to a place where it is not in force, were diligently and accurately observed. For it has been explored and made clear to you that the Sacred Congregation of the Council defined this a long time ago, and it was confirmed by the authority of the Supreme Pontiff Urban VIII in a Brief which begins "Exponi nobis," and which was published at the request of the Archbishop of Cologne on August 14, 1627. According to what is decreed in this document, those who have a domicile and retain it in a place where the law of Trent is in force, cannot validly enter into marriage in a place where it is not in force, unless they have established there not merely a residence, but also a true domicile, whereby any fraud that may exist must be completely purged. In order to establish a quasi-domicile, which is necessary in these cases, two things are required together: namely, residence in the place where the marriage is contracted, and the intention of remaining there for the greater part of the year. Therefore, if it can be legitimately proven, whether of both or either of the parties, that they have the intention of remaining there for the greater part of the year, then, from the very first day on which these two things concur, namely, such an intention and actual residence, it must be judged that a quasi-domicile has been acquired, and that the marriage contracted accordingly is valid. However, if there is no proof of this intention, recourse must be had to indications, as far as they are available, which provide moral certainty. In matters that are hidden and internal, it is difficult to have such indications that would make the judge secure; therefore, the rule confirmed by the Supreme Pontiff Benedict XIV must be applied, namely, to consider whether, before the marriage, at least one month has passed during which both or either of the parties resided in the place of marriage. If it is found to have been the case, it must be considered, by presumption of the law, that there was an intention of remaining there for the greater part of the year, and that a quasi-domicile has been acquired, and therefore the marriage is valid. But if this presumption of the law, which arises from a month's residence, is contradicted by contrary proofs, by which it is certainly and clearly established that the aforementioned intention did not exist in any way, then, indeed, it is clear that the opposite judgment must be given, because presumption must yield to truth. Furthermore, it is also clear that actual residence is not sufficient to establish a quasi-domicile, if someone resides in that region in the manner of a vagrant or a traveler, and not truly and properly as others usually do who have a true and proper domicile in

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the same place.

[*Latin ed. p. 269*]

269 Encyclical Letters from the Most Holy Pope Leo XIII to the Patriarchs, Primates, Archbishops, Bishops, and all Catholics of the world, granting grace and communion with the Apostolic See. Concerning the Study of Holy Scripture, Providentissimus Deus. Because God, with admirable counsel of charity, brought the human race, originally created for fellowship with the Divine Nature and subsequently led to ruin through sin, He restored it to its former dignity; and for this very reason He has provided a singular safeguard, namely, that the mysteries of the Divine, His wisdom, His mercy, and His supernatural way may be made manifest. For although in Divine Revelation, all things are contained which are inaccessible to human reason, these things revealed to men, so that they may be known by all with ease, with firm certainty, and without any admixture of error, are not absolutely necessary; but because God, out of His infinite goodness, has ordained man for a supernatural end (1). This supernatural Revelation, according to the faith of the entire Church, contains both those things which are in the unwritten traditions, and also those things which are in the written books, which are called sacred and canonical, because they were written under the inspiration of the Holy Spirit, have God as their Author, and, as such, have been handed down to the Church (2). This has always been openly professed by the Church, both in the books of the Old and New Testaments: and the most serious documents of the ancients testify that God, first through the prophets, then through Himself, and afterwards through the Apostles, has also established the Scripture, which is called canonical (3), and that it is the oracles and divine speech (4), letters given to the human race, far from its earthly wandering, by the Heavenly Father, and transmitted through sacred authors (5). Now, since the Scriptures are so excellent and dignified, being composed by God Himself, and containing the highest mysteries, counsels, and works, it follows that that part of sacred theology which is concerned with guarding and interpreting these Divine Books, is of the highest excellence (1).

(1) Council of Trent, Session II, Decree on Revelation, Chapter II.

(2) Ibid.

(3) St. Augustine, *De Civitate Dei*, XI, 3.

(4) St. Clement, *Epistle to the Corinthians*, I, 45; St. Polycarp, *Letter to Philip*, 7; St. Irenaeus, *Against Heresies*, I, 28, 2.

(5) St. Chrysostom, *Homilies on Genesis*, 2, 2; St. Augustine, *Tractates on Psalm 30*, 2, 1; St. Gregory the Great, *Letter to Theodorus*, IV, 31.

[*Latin ed. p. 270*]

270 ENCYCLICAL LETTERS and the greatest benefit. — Therefore, just

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as certain branches of learning, which we have seen to be of the greatest benefit to the divine glory and to the salvation of men, have been diligently promoted through frequent letters and exhortations, and not without fruit, with the help of God, so too, we have long considered it necessary to encourage and commend this most noble study of sacred Letters, and to direct it more suitably to the needs of the times. And now, moved and urged by the solicitude of our Apostolic office, we desire not only to open more safely and abundantly for the benefit of the Lord's flock that most excellent source of Catholic revelation, but also to ensure that it suffer no violation whatsoever, either by those who, impiously or openly, attack the holy Scripture, or by those who, with deceit, imprudence, or some other fault, attempt to corrupt it.

We are not, indeed, unaware, Venerable Brothers, that there are many among Catholics, men of intellect and rich in doctrine, who are eager to defend the divine Scriptures or to prepare a wider understanding and knowledge of them. But while we praise and commend the work and fruit of such men, we cannot, however, fail to earnestly encourage others as well, whose intelligence, doctrine, and piety promise to be equally excellent, to embrace this sacred cause with vigor. We desire and hope that more may rightly undertake the patronage of the divine Scriptures and persevere in it; and that those, above all, whom divine grace has called to the sacred order, may devote greater diligence and industry to studying, meditating upon, and explaining them, as is fitting. This study is, indeed, worthy of being earnestly recommended, not only for its own excellence and for the obedience due to the Word of God, but also for a very special reason, namely, for the manifold benefits which we know are derived from it, as the certain Sponsor, the Holy Spirit, declares: "All Scripture is divinely inspired, and is useful for teaching, for rebuking, for correcting, for training in righteousness, that the man of God may be complete, equipped for every good work" (1). Such are the Scriptures given by God to men, they show examples of Christ the Lord and the Apostles. For they "by miracles confirmed their authority, by authority gained faith, by faith won over a multitude" (2), to the sacred Lit(1) 2 Timothy 3:16-17. (2) St. Augustine, *De utilitate credendi*, xiv. 32.

[*Latin ed. p. 271*]

ENCYCLICAL LETTERS 271. The Apostles, in the exercise of their divine mission, were accustomed to use letters; for they declared themselves to be sent by God, and from these letters they sought to instruct and edify their disciples, to confirm them in the doctrine, to defend their testimonies from calumnies, and to refute the arguments of the Sadducees and Pharisees, and even to rebuff Satan himself, who was more boldly inciting opposition; and they even used these same letters as a means of preserving their own lives, explaining matters to their disciples until the time when they as-

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cended to the glory of the Father. – Conformed to the voice and commands of the Apostles, although they themselves performed signs and wonders through their hands (1), they demonstrated a great efficacy from the divine Scriptures, so that they spread the wisdom of Christianity widely among the nations, that they might break the obstinacy of the Jews, and that they might suppress the heresies that were arising. This is evident from their own discourses, especially those of the Blessed Peter, which, as a firmest proof of the new covenant, they almost interwove with the words of the Old Testament; and this is also evident from the Gospels of Matthew and John, and from the Catholic epistles; and it is most clearly evident from the testimony of him who "boasts that he learned the Law of Moses and the Prophets at the feet of Gamaliel," so that, armed with spiritual weapons, he might confidently declare: "For our warfare is not carnal, but hath power in God" (2). – Therefore, let all, especially those who are beginners in the sacred military service, understand from the examples of Christ the Lord and the Apostles how important the divine Scriptures are, and how they should strive with all their zeal and devotion to approach them as a veritable armory. For they should treat the doctrine of the Catholic truth with the learned and the unlearned, and they should always find in them, whether it be a simple explanation or a more extensive exposition, a source of hope concerning God, the supreme and most perfect good, and concerning the works that reveal His glory and His charity. As for the human race, there is nothing more useful or more expressive than what is contained in the context of the Scriptures; and rightly did Jerome say, "Ignorance of the Scriptures is ignorance of Christ" (3): for from them, as from a living and breathing source, the removal of evils, the encouragement of virtues, and the wonderful invitation to divine love are wonderfully diffused. As for the Church, its institution, nature, functions, and charisms are so frequently mentioned therein, and so much is said about them, that...

(1) Acts, xiv, 3.

(2) 2 Corinthians, 10:4.

(3) In Is. Prot.

[*Latin ed. p. 272*]

272 Encyclical letters, which are prompt to provide arguments, as Jerome himself has expressed: "He who is strengthened by the testimonies of the Holy Scriptures, is the bulwark of the Church (1)." Therefore, for the conformation of life and morals, and for discipline, apostolic men will have ample and the best assistance: the prescriptions of perfect sanctity, exhortations pleasing and comforting, and examples in every kind of virtue. Moreover, there is added a most serious thing: the promise of eternal rewards, and the denunciation of punishments, all in the name and words of God. And this proper and singular virtue of the Scriptures, proceeding from the divine inspiration of the Holy Spirit, is what adds sacred authority to

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the speaker, grants apostolic freedom of speech, and bestows a vigorous and victorious eloquence. For whoever speaks with the spirit and power of the divine word, he does not speak merely in words, but also in power, and in the Holy Spirit, and in much wisdom (2). Therefore, those who preach and provide instruction in religion ought to take careful that they bring forth nothing but the words of human knowledge and prudence, rather than arguments rooted in the divine. Indeed, the prayer of these, however brilliant it may seem, must necessarily languish and grow cold, since it lacks the fire of the word of God (3), and is far removed from that which the divine word possesses: "For the word of God is living and effectual and more piercing than any two edged sword; and reaching unto the division of the soul and the spirit, of the joints also and the marrow: and is a discerner of the thoughts and intents of the heart" (4). Moreover, it must also be understood that there is a wonderfully varied and abundant eloquence, worthy of great things, contained in the Holy Scriptures: which Augustine perceived and argued with great discernment (5), and which he himself confirms, stating that the most outstanding of sacred orators owe their names primarily to the constant habit of reading the Bible and pious meditation. All these things the Holy Fathers explored and understood thoroughly, and they never ceased to praise the fruits of the divine Scriptures in the divine writings. For they often call them either the most copious treasure of heavenly doctrines (6), or...

(1) In Is. Liv, 12.

(2) I Thess. I, 5.

(3) Jerem, xxii, 29.

(4) Hebr. iv, 12.

(5) De doctr. chr., i v , 6, 7.

(6) S. Chrys. in Gen. hom. 21, 2; hom. 60. 3; S. Aug. de discipl. chr. 2.

[*Latin ed. p. 273*]

ENCYCLICAL LETTERS 273 are perennial sources of salvation (1), or rather, they present themselves as fertile fields and most delightful gardens, in which the flock of the Lord is wonderfully nourished and delighted (2). Fittingly, Saint Jerome writes to Nepotianus, a cleric: "Read the Divine Scriptures more frequently, indeed, let the sacred reading never cease; learn what you may teach, for the sermon of the presbyter must be founded on the reading of the Scriptures" (3); and the sentiment of Saint Gregory the Great agrees, who, as a most wise shepherd of the Church, described the duties: "It is necessary," he says, "that those who attend to the office of preaching, do not depart from the study of the sacred reading" (4). However, it is fitting here to introduce Augustine, who admonishes, "The Word of God is useless to a preacher who is not himself attentive," (5) and also Gregory himself, who urges sacred preachers, "that in divine dis-

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courses, before offering them to others, they first examine themselves, lest they follow the deeds of others, but rather be examples" (6). But, from the example and teaching of Christ, who began to do and to teach, the apostolic voice widely forewarned, not only Timothy, but the entire order of clergy, with this command: "Take heed to thyself and to doctrine: be earnest in them. For in doing this thou shalt both save thyself and them that hear thee" (7). Indeed, the Scriptures offer abundant nourishment for salvation and perfection, both for oneself and for others; this is especially celebrated in the Psalms; however, those who approach divine eloquence must not only bring a docile and attentive mind, but also a whole and pious disposition of the will. For their writings are not to be considered like those of the common people; but, since they are dictated by the very Holy Spirit, and contain most serious matters, and in many parts are hidden and more difficult, therefore, in order to understand and explain them, we "need the coming" (8), that is, the light and grace of the same Spirit: which, as the divine Psalms frequently urge, must be implored with humble prayer, and guarded by the sanctity of life. Therefore, the providence of the Church excels in this regard, which, lest that heavenly treasure of sacred books, given by the Spirit, be neglected, diligently provides that the clergy devote themselves to the study of the Scriptures.

(1) St. Athan, ep. fest. 39.

(2) St. Aug. serm. 26, 24; St. Ambr. in Ps. cxviii, serm. 19. 2.

(3) St. Hier, de vit. cleric. ad Nepot.

(4) St. Greg. M., Regul. past. II, 11 (al. 22 Moral, XVIII, 26 fat. li).

(5) St. Aug. serm. 179, 1.

(6) St. Greg. M., Regul. past. III, 24 (al. 48).

(7) 1 Timothy 4:16.

(8) St. Hier, in Mic. 1,10.

[*Latin ed. p. 274*]

274 Encyclical letters, with the utmost generosity, have been transmitted by the Holy See to men, lest they neglect [this matter], and [the Church] has always cautioned against the abandonment of the best practices and laws. Indeed, it has decreed that not only a considerable portion of the works of all its servants should be read aloud during the daily psalmody, and with pious consideration, but also that the exposition of the seats [of honor] and the interpretation of Scripture should be delivered in cathedrals, in monasteries, and in the convents of other religious orders, where studies can conveniently flourish, by suitable men; and that, at least on Sundays and solemn feasts, the faithful should be instructed with salutary words from the Gospel, as it has strictly commanded. Furthermore, this ecclesiastical practice, based on Holy Scripture, is beneficial for all ages and is of great utility.

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In this regard, it is also helpful to recall how, from the very beginnings of the Christian religion, those who flourished in sanctity and in the knowledge of divine things have always been diligent in the sacred writings. We see, among the immediate disciples of the Apostles, such as Clement of Rome, Ignatius of Antioch, and Polycarp, as well as the Apologists, notably Justin and Irenaeus, who, in their letters and books, whether pertaining to the defense or the commendation of Catholic dogmas, drew faith, strength, and all piety from the most divine writings. Furthermore, the catechetical and theological schools that arose in many places, especially in Alexandria and Antioch, which were most renowned, progressed no further than the reading, explanation, and defense of the written word of God. From these, many Fathers and writers emerged, whose laborious studies and excellent books enriched the next three centuries to such an extent that this period was called the "biblical age" or the "golden age" of exegesis.

Among the Eastern writers, Origen holds the foremost place, remarkable for the swiftness of his intellect and the constancy of his labors, whose numerous writings and immense work, the Hexaplaris, have been used by almost everyone. Among those who expanded the boundaries of this discipline, we may mention Clement and Cyril of Alexandria; Eusebius and another Cyril of Palestine; Basil the Great, both Gregories, Nazianzus, and Nyssa of Cappadocia; and John Chrysostom of Antioch, in whom this expertise in doctrine contended with the utmost eloquence. Nor is this less praiseworthy among the Westerners.

[*Latin ed. p. 275*]

ENCYCLICAL LETTERS, 275 in number, demonstrated the influence of Tertullian and Cyprian, Hilary and Ambrose, Leo and Gregory the Great; the eminence of Augustine and Jerome: of whom one, with exceptional keenness, excelled in understanding the divine word and in expounding the aids of Catholic truth; the other, through singular knowledge of the Scriptures and great labor in their use, was honored by the Church with the title of "Doctor." — From that time until the eleventh century, although this kind of scholarly endeavor did not cease in ardor or fruitfulness, it nevertheless flourished, especially through the efforts of men of the sacred order. For they either diligently sought out and preserved those works which had been most fruitful in this regard, adapting them to their own needs and spreading them, as was done by Isidore of Seville, Bede, and Alcuin; or they illuminated sacred texts with glosses, as did Walafrid Strabo and Anselm of Lucca; or they devoted themselves to the integrity of the authors, as did Peter Damian and Lanfranc. — In the twelfth century, many treated the allegorical interpretation of Scripture with great acclaim: in this genre, St. Bernard easily surpassed the others, whose sermons contain almost nothing but divine words. — But new and more joyful advancements arose from the discipline of the Scholastics. Although they studied

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to investigate the Latin version of the Scriptures, and the *Correctores Biblicae* bear witness to this, they devoted even more effort and industry to the interpretation and explanation of them. For they, with clarity and precision, distinguished the various meanings of the sacred words; they considered each point in relation to theology; they defined the parts of the books, the arguments of the sections; they investigated the intentions of the writers; they explained the meanings among themselves, showing necessity and connection: from which it is clear to no one how much light has been brought to obscure places. Their very progress in reading the Scriptures reveals a great abundance of doctrine, both in theological books and in commentaries on them; and in this, Thomas Aquinas held the highest place. — After our predecessor, Clement V, augmented the University in the City and all the most celebrated universities with the instruction of oriental literature, our men began to work more diligently on the original Hebrew text of the Scriptures and on the Latin exemplar. And when the learning of the Greeks was restored to us, and many new and fortunate literary discoveries were made, the study of the holy Scriptures greatly increased. It is indeed marvelous that...

[*Latin ed. p. 276*]

276 Encyclical letters, multiplied in a short space of time, have presented sacred examples, especially the Vulgate, and have completed the Catholic character: indeed, at the very same time, while the enemies of the Church are slandered, the divine teachings were held in honor and love. — Nor should it be overlooked how many learned men, especially from religious families, from the Council of Vienna to the Council of Trent, have contributed to the good of biblical studies: who, using new resources and various erudition and their own ingenuity, not only increased the accumulated knowledge of their predecessors, but also paved the way for the excellence of the following century, which also stemmed from Trent, as if the most noble age of the Fathers were about to return. For no one is ignorant, and it is pleasing to us to recall, that Our predecessors, from Pius IV to Clement VIII, were the authors who adorned those editions with the signs of ancient versions, the Vulgate and the Alexandrian; which, subsequently, at the command and authority of Sixtus V and Clement himself, were published and are in common use. Moreover, it is known that other ancient versions of the Bible, as well as the Antwerp and Parisian polyglots, were edited with the utmost diligence, prepared for the sincere investigation of meaning: and that there is no book of either Testament which has not been enriched with good commentaries, nor any more serious question on these matters which has not been fruitfully explored by the minds of many; among whom, not a few, and those most studious of the Holy Fathers, have earned an excellent reputation. And, from that very age, our diligence has not been lacking; for there have been men of God who, with similar

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studies, have deserved well, and have defended the sacred letters against the commentaries of rationalism, drawn from philology and related disciplines, with a similar line of argument. — Those who consider these things properly will surely see that the Church has never lacked any provision by which to derive the sources of divine Scripture for the salvation of its children, and that it has perpetually retained that *praesidium*, in which divine tutelage and dignity are located, and has adorned it with all the resources of study, so that it has never lacked, and will never lack, the encouragement of external men. Now, the reason for the institution of our council is that we may communicate with you, Venerable Brothers, those things which seem best suited for the proper ordering of these studies. But, as is the case with the human race, it is important to know what adversities are encountered, and upon what things men rely, whether arts or arms. — Indeed, as long as...

[*Latin ed. p. 277*]

ENCYCLICAL LETTERS 277: With those leaders it was the same who, relying on private judgment, rejected the divine traditions and the magisterium of the Church, and declared Scripture to be the supreme source of revelation and the ultimate judge of faith; just as it is now with the Rationalists, and with those who are considered their sons and heirs, who, with the same obstinacy, have completely rejected the relics of the Christian faith, or have accepted their own, or those very ones, which they have devised themselves. For they deny the divine revelation, or inspiration, or the sacred Scriptures, and they do not allow anything else to be said, except for human artifices and commentaries: namely, not true accounts of events, but either inept fables or false histories; not prophecies and oracles, but either predictions fabricated after the fact or conjectures based on natural observations; not true miracles and demonstrations of divine power, but certain marvels, not greater than the powers of nature, or tricks and myths. The Gospels and the apostolic writings are attributed to entirely different authors.

Such portents of error, by which they claim to tear down the sacred truth of the divine books, they proclaim as decrees of a certain "free science," which, however, are so uncertain that they are frequently changed and supplemented in the same matters. But those who truly believe in God, in Christ, in the Gospel, and in the rest of Scripture, and who proclaim it, are not exempt from the insolent audacity of those who wish to be considered theologians and Christians. To these are added many who consider themselves participants in councils and helpers of other disciplines, who similarly attack the revealed truths and the Bible. But we cannot sufficiently deplore how widely and intensely this attack is carried out day by day. It is carried out against learned and serious men, although they can, to some extent, protect themselves; but above all, against the common people,

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against whom the enemies are driven with all cunning and artifice. They spread the deadly poison through books, pamphlets, and newspapers; they insinuate it in sermons and conversations; everything is permeated by it, and it is especially lamented that, far from the protection of the Church, it reaches the schools of adolescents, where credulous and impressionable minds are miserably corrupted by contempt for Scripture, and even by jokes and vulgar jests.

These are the things, Venerable Brothers, that should stir and inflame our common pastoral concern, so that this new false name of science (1) may be opposed to that ancient and true one. (1) 1 Timothy 5:20.

[*Latin ed. p. 278*]

278 Encyclical letters, which Christ received through the Apostles, and in this great struggle, suitable defenders of Holy Scripture must arise. Therefore, the first care must be that the divine letters are taught in sacred seminaries and academies, just as the gravity of the discipline and the necessities of the times demand. For this reason, nothing should be more ancient than the prudent selection of teachers: for this task should not be entrusted to just anyone, but to those whom a great love and long habit of reading the Scriptures, and a suitable adornment of doctrine, make worthy, and who are fit for the office. Nor should the place where these teachers are to be located be overlooked. Therefore, wherever it is convenient, some of the best students, with the greatest hope, should be added to the theological studies, and given the opportunity to devote themselves to the divine books for a time. Thus, the selected teachers, entrusted with this task, should undertake it confidently; and it may be fitting for them to explain some things more clearly, so that they may produce the best and most harmonious results. – Therefore, from the very beginning of these studies, attention should be given so that the students may form a judgment suitable for studying the divine books, and may acquire from them sentiments that are diligent and well-founded. This pertains to the treatise, as it were, on the introduction to the Bible, from which the student may have a convenient means of demonstrating the integrity and authority of the Scriptures, of investigating and following the true meaning within them, and of refuting captious errors. It is hardly necessary to say that, with all due consideration and with the help of theology, this should be discussed from the beginning, since the entire subject matter is either supported by the foundations of Scripture or illuminated by clear principles. – Furthermore, it is incumbent upon the teacher to diligently undertake the more fruitful part of this instruction, which concerns interpretation; so that the students may understand how the divine words may be converted to the advancement of religion and piety. We understand indeed that the Scriptures cannot be explained in all schools, nor is it permissible to do so in its entirety, nor in a lengthy manner. But, since it is a certain task

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to expound the way of interpretation usefully, a prudent teacher should avoid the inconvenience, whether by assigning certain books to be studied, or by assigning those who are more diligent in certain parts. If it cannot be obtained in many schools that, as in the academies, one or two books are expounded with some length, then it is very important...

[*Latin ed. p. 279*]

ENCYCLICAL LETTERS: It is necessary that the parts of books selected for interpretation have a suitably complete treatment: so that, as an attractive example, students and the educated may read the rest themselves and apply it to all of life. Therefore, retaining the tradition of the ancients, this edition will use the Vulgate version; which the Council of Trent decreed should be considered authentic for public readings, discussions, sermons, and expositions (1), and which is also recommended by the daily custom of the Church. However, the merits of the other versions, which Christian antiquity has praised and used, especially the older codices, should not be neglected. For, although, with regard to the matter itself, the Hebrew and Greek editions of the Vulgate shine with clarity, nevertheless, as Augustine says, "if something is ambiguous, or if something is less accurate there, 'the inspection of the preceding language' will be helpful" (2). It is clear, indeed, how much effort can be devoted to this, when it is the "duty of the interpreter, not to express what he himself wants, but what the one he is interpreting says" (3). After the expense, where it is necessary, every effort should be made to examine the passage and present the meaning. First of all, it is advisable to observe the commonly accepted rules of interpretation with the utmost care, especially when the content is challenged by opponents. Therefore, with diligent study, one must consider what the words mean, what consequences they intend, what similarities exist in the passages, and external illustrations of learning should be associated with this: but care must be taken that more time and effort are not devoted to such questions than to understanding the divine books, lest a multitude of knowledge cause more harm than benefit to the minds of young people. From this, a safe path to the divine Scriptures in theological matters will be established. In this field, it must be noted that, in addition to the other difficulties that often occur in understanding ancient books, there are special difficulties that are specific to the sacred books. For in the words of the author, the Holy Spirit, many things are presented that surpass human understanding and the longest inquiries, namely, divine mysteries and many other things contained therein; and sometimes these are expressed by a wider range of conditions and meanings, which require the letter and hermeneutics (1).

(1) Sess. iv, decr. de edit.

(2) De doctr. chr. i n, 4.

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(3) S. Hier. ad Pammacli. et usu sacr. libror.

[*Latin ed. p. 280*]

280 Encyclical letters appear to indicate laws: others, to clarify meanings, or to illustrate dogmas, or to commend precepts of life; indeed, the literal sense itself is understood. Therefore, it is not to be doubted that certain obscurities in the sacred books exist, so that no one might enter (1), unless guided by something; and indeed, it is so arranged (as the opinion of the Fathers is commonly held), that men might investigate them with greater desire and zeal, and that the things thus diligently discovered might impress the mind and soul more deeply; and especially, that the Scriptures were delivered to the Church by God, 'so that she might be the surest guide and teacher in reading and understanding His words.' For where the gifts of the Lord are placed, there one learns the truth, and from those among whom there is an apostolic succession, the Scriptures are exposed without any danger, as the holy Irenaeus taught (2). And indeed, the doctrine of this and other Fathers was embraced by the Vatican Council, when, renewing the Tridentine decree concerning the interpretation of the written word of God, it declared that, in matters of faith and morals, which pertain to the edification of Christian doctrine, that understanding of the sacred Scriptures is to be held as the true one which the holy Mother Church has held and holds, to whom it belongs to judge of the true sense and interpretation of the sacred Scriptures; and therefore, it is not permitted to anyone to interpret the sacred Scriptures against this sense, or even against the unanimous consent of the Fathers (3). – Thus, the Church, by this most wise law, does not hinder or coerce the investigation of biblical science, but rather, it protects it from error and greatly aids its true progress. For a wide field lies open to each private doctor, in which, following safe paths, he may excellently exercise his industry in interpreting, and may be useful to the Church. In those places where the exposition of the divine Scriptures still requires a certain examination and definition, it can be so arranged, by the sweet providence of God, that, with prepared study, the judgment of the Church may mature; but in places where things are already defined, a private doctor can also be useful, either by more clearly explaining things to the faithful people, or by more ingeniously presenting them to the learned, or by refuting objections. Therefore, it is especially important for a Catholic interpreter to use (1) St. Hier., ad Paulin, de studio Script., ep. 1, 111, 4. (2) Haer., i, v, 26, 5. (3) Sess. i n, cap. I I, de revel.: cf. Conc. Trid. sess. sacr. libror. iv, decr. de edit. et.

[*Latin ed. p. 281*]

ENCYCLICAL LETTERS 281, the authenticity of whose meaning has been declared, or by sacred authors, inspired by the Holy Spirit, as in many places in the New Testament, or by the Church, with the same Holy

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Spirit assisting, either through solemn judgment, or through the ordinary and universal magisterium (1), and that these should be interpreted in the same way; and that, by the aid of its discipline, it demonstrates that only that interpretation can be rightly proven, which conforms to the laws of sound hermeneutics. In other matters, the analogy of faith must be followed, and the Catholic doctrine, as accepted by the authority of the Church, must be used as the supreme norm: for, since both the sacred books and the doctrines deposited with the Church have the same Author, God, it cannot be that a legitimate interpretation can be derived from those who deviate from this in any way. From this it is clear that that interpretation must be rejected as either inept or false, which, either contradicts inspired authors in some way, or is contrary to the doctrine of the Church. Therefore, it is fitting that this discipline should flourish greatly, so that it may hold all of theology excellently, and be versed in the commentaries of the most holy Fathers, Doctors, and best interpreters. Indeed, Jerome teaches this (2), and also Augustine, who, with just complaint, says: "If every discipline, however humble and easy it may be to grasp, requires a teacher or master, how much more is it to be feared to refuse to know the books of the divine sacraments from interpreters!" (3). Other Fathers have also expressed the same sentiment and confirmed it with examples, who "followed the understanding of the divine Scriptures, not from their own presumption, but from the writings of the ancients, to whom they had received the rule of understanding, as they themselves were successors of the Apostles" (4). Truly, the Holy Fathers, to whom "the holy Church grew after the Apostles, as planters, irrigators, builders, pastors, and nourishers" (5), are of the highest authority, whenever they explain some biblical testimony, as pertaining to the doctrine of faith or morals, in the same way: for from their very consensus, it clearly appears that they have received it from the Apostles according to the Catholic faith. Furthermore, the sentiments of these Fathers are to be held in great esteem, when they (1) Council of Trent, Session I, Chapter III, on Faith. (2) Ibid., G. 7. (3) To Honoratus, on the Utility of Belief, XVII, 35. (4) Rufinus, Ecclesiastical History, n. 9. (5) St. Augustine, Against Julian, n. 10, 37.

[*Latin ed. p. 282*]

282 Encyclical letters concern matters that the Doctors treat of as if privately; for indeed, not only does knowledge of revealed doctrine and acquaintance with many things, and the utility of the books of the Apostles, greatly commend them, but God Himself, assisting men distinguished by the sanctity of their lives and the pursuit of truth, aids them with greater gifts of His light. Therefore, the reader should understand that he should reverently follow in their footsteps and draw instruction from their labors with discerning judgment. And let him not think that his path is obstructed by envy, so that, when a just cause arises, he may

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inquire and expound, even going further, provided that he religiously observes that precept wisely proposed by Augustine, namely, that one should not deviate in the least from the literal meaning, unless reason forbids it or necessity compels him to abandon it (1); and this precept is to be observed more firmly, the more danger of error threatens from the cupidity of novelty and the license of opinions. Let him be wary, moreover, of those things which have been transferred from the same Fathers by way of allegory or similar interpretation, especially since they descend from the literal meaning and are supported by the authority of many. For the Church received such a method of interpretation from the Apostles, and confirmed it by its own example, as may be seen from the liturgy; not that the Fathers contend that dogmas of faith are to be demonstrated by reasoning, but that they are experienced by those who cultivate virtue and piety. Other Catholic interpreters, indeed, have less authority; yet, since the study of the Scriptures has made continuous progress in the Church, their commentaries also deserve honor, from which it is often permissible to draw opportune arguments to refute errors and to explain difficult passages. But it is highly improper for anyone, through excellent works, to prefer the books of heretics, ignoring or despising those which our men have left behind, and to seek an explanation of passages in which Catholic minds and labors have already been excellently employed, with the present and wholesome doctrine, to his peril, and not rarely to the detriment of the faith. For although a Catholic interpreter may sometimes be aided by the studies of heretics, provided he proceeds prudently, he must remember that, as well as from the excrements of the ancients (2), the true meaning of the sacred Scriptures is nowhere outside the Church.

(1) *De Gen. ad litt. I. VIII, c. 7, 13.*

(2) *Cf. Clem. Alex. Strom., v, 16; Orig. de princ., iv, 8; in Lev., hom. 4, 8; Tertull. de praescr., I B, seqq.; S. Hilar. Pict. in Matth., 13, 1.*

[*Latin ed. p. 283*]

ENCYCLICAL LETTERS 283: They are to be avoided, nor can they be tolerated, those who, lacking true faith, attack the Scriptures, not penetrating to the marrow, but gnawing at the bark (1). It is, moreover, most desirable and necessary that the use of the same Divine Scripture should influence all of theology, so that the student may, as far as possible, nourish his soul: thus indeed all the ancients and the most illustrious theologians have professed and demonstrated in practice. For those things which are objects of faith, or which follow from them, they have diligently sought to affirm and establish from the Divine Scriptures above all; and from these, as from the Divine Tradition itself, they have refuted the novelties of heretics, and have sought out the reason, the understanding, and the connections of Catholic dogmas. And it should not seem strange to anyone that the Divine Books, which are sources of revelation, deserve such a prominent place, so

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that, unless there is diligent study and constant attention to them, theology cannot be properly and worthily treated. Although, indeed, young men are especially exercised in academies and schools, so that they may acquire understanding and knowledge of dogmas, from arguments instituted on the articles of faith, and from these, according to the norms of a proven and solid philosophy, conclusions are drawn; nevertheless, for a serious and learned theologian, the very demonstration of dogmas, derived from the authority of the Scriptures, is not to be neglected: "For theology does not receive its principles from other sciences, but immediately from God through revelation. And therefore, it does not receive from other sciences, as if from superiors, but it sits as it were above them, as a mistress and a handmaiden." This sacred doctrine has a pre-eminent teacher and commendator among theologians, namely Aquinas (2): who, moreover, from this very perspective of Christian theology, taught how a theologian can defend his own principles, if anyone should attack them: "Indeed, if the adversary concedes something of those things which are held by divine revelation, we argue; just as we dispute against heretics by means of the authority of the Holy Scriptures, and by one article against one denying another. But if the adversary believes nothing of those things which are revealed by God, then there remains no further way to prove the articles of faith by reason, but to refute the reasons which he brings against the faith (3)." Therefore, provision must be made that young men may approach biblical studies with proper instruction and strength of mind; lest they frustrate their hopes, or, which is worse, that they (1) St. Gregory M. Moral., xx, 9 (or 11). (2) Summa Theologica, pt. 1, q. 1, a. 5, 2nd part. (3) Ibid., a. 8.

[*Latin ed. p. 284*]

284 Encyclical letters must not be wanting, lest they fall prey to the deceitful snares of Rationalists, adorned with the false appearance of learning. However, they will be all the more excellent if, after We ourselves have shown the way, they have diligently studied and thoroughly understood philosophy and theology, following the same Saint Thomas. Thus, they will progress most happily, both in the biblical and in the theological disciplines, which are not without their positive aspects. It is a great thing to have demonstrated, explained, and illustrated the Catholic doctrine through a legitimate and diligent interpretation of the sacred Scriptures; but another aspect remains, one of no less importance than the labor of the work itself, namely, that the full and most valid affirmation of their own authority be made. This can be achieved fully and universally by no other means than through the living and proper teaching of the Church; which, by its very nature, due to its admirable propagation, its inexhaustible fecundity in all good things, its Catholic unity, and its stability, is a great and perpetual reason for credibility and an irrefutable testimony

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of its divine legation (1). Since the divine and infallible magisterium of the Church consists, in part, in the authority of the sacred Scriptures, therefore, human faith must first of all be asserted and defended: that is, that the divinity and mission of Christ the Lord, the hierarchical institution of the Church, the primacy granted to Peter and his successors, are placed in a safe and open manner. This will certainly be greatly aided if there are more from the sacred order who will defend this, and repel hostile attacks, especially armed with the armor of God, as the Apostle says (2), and not accustomed to the new weapons and tactics of the enemy. What is beautifully expressed by St. John Chrysostom concerning the duties of priests: "It is necessary to apply oneself with great diligence that the word of Christ may abound in us (3): for we must not be prepared for only one kind of battle, but the war is manifold, and the enemies are diverse; nor are they all armed in the same way, nor do they all try to fight with us in the same manner. Therefore, it is necessary that, as in all battles, we have knowledge of all the machines and arts, so that we may also be archers and slingers, commanders and leaders of companies, leaders and soldiers, foot soldiers and cavalry (1).

(1) Council of Trent, Session I, Chapter III, on Faith.

(2) Ephesians 6:13, and following verses.

(3) Cf. Colossians 3:16.

[*Latin ed. p. 285*]

ENCYCLICAL LETTERS 285: A soldier, skilled in naval and land warfare: for if he does not know all the arts of war, the devil, through one neglected part, will send forth his predators to tear away the sheep (1). We have already described the many deceptive arts and stratagems of the enemy in this matter; now, let us consider the defenses that should be employed.

First, there must be a diligent study of the ancient oriental languages, together with the art known as criticism. The knowledge of both is highly valued and praised today, and a cleric, whether more or less learned, adorned with knowledge of these languages, and especially suited to places and people requiring refinement, can better adorn and sustain his position; for all things ought to be done for all men (2), and he must always be prepared to give an account to everyone who asks him about the hope that is in him (3). Therefore, it is necessary for teachers of Scripture and theologians to possess these languages in which the canonical books were originally separated from the writings of the saints, and it would be most beneficial for students of the Church, especially those aspiring to degrees in academic theology. Furthermore, it is necessary to ensure that in all academies, as is commendably received in many places, there are also lectures on other ancient languages, especially the Semitic languages, and on studies congruent with them, especially for those who are destined to teach sacred literature.

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However, these very individuals should be more learned and more practiced in the true discipline of the art of criticism: for a harmful art, disguised under the honorable name of higher criticism, has been introduced, by which, using only internal reasons, as they say, the origin, integrity, and authority of certain books are judged. It is clear that, in historical matters, the testimonies of history are of greater value than others, and that they should be most diligently sought out and examined: these internal arguments are often not of such importance that they can be invoked as a cause, unless for some confirmation. Otherwise, there will certainly be serious and harmful consequences. For the enemies of religion will have greater confidence in attacking and corrupting the authenticity of the sacred books: and that very kind of higher criticism which they praise will cut both ways, as they will follow their own preconceived notions and opinions in interpreting things: thus, neither will they gain the light of understanding from the Scriptures, nor will they...

(1) De saecerd. iv. 4.

(2) I Cor. ix, 22.

(3) I Petr. m, 15.

[*Latin ed. p. 286*]

286 Encyclical letters are useful for instruction, but they will certainly reveal the mark of error, which is variety and dissimilarity of opinion; indeed, even those who are the leaders of this new discipline are a testament to this. Moreover, since many are infected with the tenets of vain philosophy and rationalism, they will not hesitate to remove from the sacred books prophecies, miracles, and whatever else surpasses the order of nature.

Secondly, we must contend with those who, using the science of physics, investigate the sacred books with abuse, and oppose the authors with ignorance of such things, even reviling the writings themselves. These deceptions are all the more dangerous because they appeal to the senses, especially among the young, who are devoted to literature; for once reverence for divine revelation has been removed from even one aspect, it is easily possible to undermine all their faith.

Indeed, it is well known that the doctrine of nature, insofar as it is suited to perceiving the glory of the highest Artificer imprinted in created things, can, if properly presented, greatly contribute to the development and correction of morals in young minds that have been perversely influenced. Therefore, knowledge of natural things will be a good aid to the sacred doctor, so that he may more easily detect and refute the captious arguments found in the divine books.

However, there should be no true disagreement between a theologian and a physicist, as long as each remains within his own bounds, taking care, as Saint Augustine warns, "not to assert anything rashly and with-

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out knowledge as if it were known" (1). But if they do disagree, as the theologian has stated, the following rule, derived from the same source, is summarized: "Whatever they, through true documents, have been able to demonstrate, we will show in our writings to be not contrary; whatever they have presented in their writings that is contrary to these, that is, to the Catholic faith, we will either demonstrate to be false, or we will certainly believe to be the most false" (2).

In considering this equitable rule, it should be noted that the sacred writers, or rather, "the Spirit of God, who spoke through them, did not intend to teach men, for their salvation, about the intimate details of the constitution of things" (3); rather, they pursue the exploration of nature, sometimes describing and treating things themselves (1).

(1) In Gen. op., imperfect, i, x, 30.

(2) De Gen. ad litt. i, 21, 41.

(3) St. Aug. ib. n, 9, 20.

[*Latin ed. p. 287*]

ENCYCLICAL LETTERS 287, or rather, in a certain manner of translation, or as was customary in former times, and even today in many matters pertaining to daily life, even among the most learned men. "In common speech, indeed, and in a manner that is most proper, those things are expressed which pertain to understanding, just as the sacred writers (and the Angelic Doctor) 'followed those things which are manifestly apparent' (1), or which God Himself, speaking to men, signified in a human manner. — Therefore, when defending the holy Scriptures, it is not necessary that all opinions be held with equal regard, which individual Fathers or those who subsequently interpreted them have expressed: for they, according to the opinions of their age, sometimes discuss things pertaining to physics, and perhaps they have not always judged according to the truth, as they presented it, and which are now considered less probable. Therefore, it must be carefully examined in their interpretations, what they truly present as pertaining to faith, or as being most closely connected with it; for 'in those things which are not of necessity for faith, it was permitted for the Saints to hold different opinions, as it is for us,' as St. Thomas states (2). And in another place, he prudently observes: 'It seems safer to me, in such matters, that those things which philosophers have commonly held, and which do not contradict our faith, should not be asserted as dogmas of faith, even though some of them are introduced under the name of philosophy, nor should they be rejected as being contrary to faith, lest an opportunity be given to the wise men of this world to despise the doctrine of faith' (3). Indeed, although those things which certain speculators about nature have affirmed with certain arguments, the interpreter will show that, when the Scriptures are rightly explained, nothing obstructs; yet it sometimes happens that, of those things which they have transmitted, some are later

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brought into doubt and rejected. Thus, when the writers on physics, having transgressed the boundaries of their own discipline, invade the province of philosophy with the perversity of opinions, the interpreter, as a theologian, sends those opinions back to the philosophers to be refuted. These very considerations should then be transferred to related disciplines, especially to history. It is regrettable that many are those who, with great effort, examine and present the monuments of antiquity, the mores and institutions of nations, and testimonies of similar things, but often with a biased intention, so that errors may creep into the sacred writings (1) Summa theol. p. i, q. L X X , a. 1 ad S. (2) In Sent. I I , dist. n, q. i, a. 3. (3) Opuse, x.

[*Latin ed. p. 288*]

288 Encyclical letters are to be received with caution; for from them the authority and every aspect of truth may be weakened. And this, indeed, causes no small offense to some, and they judge it unjustly: those who so trust profane books and documents, as if no suspicion of error could ever be present in them, while to the books of the Holy Scripture, even if they seem to contain some error, they neither grant any discussion, nor do they show any obedience of faith. It can indeed happen that certain things have been written less correctly in the books; which must be judged carefully, and not easily admitted, unless it has been duly demonstrated in those places. It can also happen that the opinion of some place remains, or is accepted; to which the best rules of interpretation must be applied. But it is utterly forbidden, either to restrict inspiration to only some parts of the Holy Scripture, or to concede that the Holy Scripture itself has erred in its author. Nor is their reasoning to be tolerated, who, from these difficulties, seek to excuse themselves, namely, that they do not doubt that divine inspiration pertains to the faith of the faithful, and to nothing else; which they falsely believe, because, when it comes to the truth of sentences, it is not enough to inquire what God has said, but it must also be considered why He said it. For all the books and writings which the Church receives as sacred and canonical, with all their parts, have been written under the guidance of the Holy Spirit; so that it is utterly impossible that any error should be present in them. Indeed, this not only excludes all error, but it necessarily excludes and rejects it, just as it is necessary that God, the supreme Truth, be the author of no error whatsoever. — This is the ancient and constant faith of the Church, solemnly defined in the Councils of Florence and Trent; and it is confirmed and expressly declared in the Vatican Council, where it is absolutely decreed: The books of the Old and New Testaments are to be received as sacred and canonical with all their parts, as they are enumerated in the decree of the same Council (of Trent), and as they are found in the common Latin edition. The Church receives these books as sacred and canonical, not because they were composed solely by human industry; but because they have been approved by its authority; nor only because they

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contain revelation without error; but because they were written under the inspiration of the Holy Spirit, and have God as their author (1). Therefore, it matters very little,

[*Latin ed. p. 289*]

ENCYCLICAL LETTERS 289. Men have received the Holy Spirit as an instrument for writing, so that, not only the primary author, but also the writers themselves, could not have possibly uttered anything false. But the supernatural power moved and stirred them in such a way that, while they were writing, it was present with them, so that everything they wrote was exactly what It willed, and so that they might understand with a pure mind, and wish to write faithfully, and express everything with perfect and infallible truth: otherwise, It would not be the author of the entire Holy Scripture. The Holy Fathers have always held this to be true: "Therefore," says Augustine, "when they wrote what He showed them, it is by no means to be said that He did not write: since His members were moved, which the head knew" (1). And St. Gregory the Great says: "It is a superfluous question to ask who wrote, when the author of the book is so faithfully believed to be the Holy Spirit. He, therefore, wrote, who dictated; He wrote, who was also present inspiring in His work" (2). It follows that those who in authentic places of the Holy Books think that something false might be contained, are certainly either perverting the Catholic notion of divine inspiration, or making God Himself the author of error. And so, it has always been persuasively held by all the Fathers and Doctors that the divine Scriptures, as they were written by the hagiographers, are entirely immune from all error, so that, even those things that might seem to convey something contrary or dissimilar, have been diligently and religiously composed and reconciled among themselves; and they have unanimously professed that these books are both entire and divinely inspired, and that God Himself, through the sacred authors, could not have placed anything untrue. May all these things be true that Augustine wrote to Hieron: "Indeed, I confess to you, that I have always learned to give greater honor to only those books of Scripture which are called canonical, so that I firmly believe that none of their authors erred in writing anything. And if anything in their writings seems contrary to the truth, it is nothing other than either a mendacious codex, or an interpreter who has not understood what was said, or who has not understood the ambiguity" (3).

(1) Ep. LXXXII, 1, and frequently elsewhere. Acts, Vol. XXVI, chap. CCCV, 19.

(2) De consensu Evangel., 1, chap. 35.

(3) Preface to Job, n. 2.

[*Latin ed. p. 290*]

290 ENCYCLICAL LETTERS. But truly, to contend with all the force

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of the most powerful instruments for the sanctity of the Scriptures, completely and perfectly, is of far greater importance than that which can be expected from the diligence of interpreters and theologians alone. It must also be considered that those who conspire and plot against [the Scriptures] are even among Catholics, who have been somewhat deprived of the name and authority of [the Church]. These talents, if they ever existed, certainly do not now, by the grace of God, lack in the Church; and may they increase even more in support of the faith. For there is nothing more important than that the truth should gain more and more valiant defenders than its adversaries; nor can anything more persuade the common people to obey the truth than when those who possess some particular talent freely profess it, and demonstrate it in some praiseworthy activity. Indeed, it is easily overcome by the envy of detractors, or they will not dare to so boldly traduce those enemies of science, faith, when they see that learned men, with the highest honor, reverence, and devotion, apply their knowledge to the glory of the faith.

Therefore, since only those can contribute benefits to religion who have been blessed by the benign Providence of God with a happy disposition and the grace of the Catholic profession, it is fitting that each one choose a field of study in which he may excel, so that, at the appropriate time, he may repel the impious attacks of false science, not without glory.

It is fitting to commend the counsel of some Catholics, who rightly propose that, in order that more learned men may be able to pursue such studies with all the necessary resources, generous contributions should be freely given to societies formed for this purpose. This is certainly a most excellent and opportune investment. Since Catholics are less able to publicly support their studies, it is fitting that the generosity of private individuals should be more readily and abundantly forthcoming; so that those who have been enriched by God may wish to convert their wealth into a safeguard for the revealed treasure of doctrine.

However, for such endeavors to truly benefit the Holy Scriptures, they must insist on the principles that we have previously defined; and they must faithfully hold that God, the Creator and Governor of all things, is the Author of the Scriptures; therefore, nothing from the nature of things, nor from historical monuments, can be accepted that contradicts the Scriptures. If, however, something appears to contradict them, it must be removed, and, with the prudent judgment of theologians and interpreters, it must be determined what the Scriptural passage truly and most likely means.

[*Latin ed. p. 291*]

ENCYCLICAL LETTERS 291. One must diligently examine the arguments that are raised, and then, with careful attention, consider the force of those that are presented against them. And even if some apparent objection remains, one must not cease; for, since the adversary cannot possibly utter

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anything that is truly true, it is certain that either a sacred interpretation of the words has been corrupted, or an error has been committed in the other part of the discussion; nor, if neither of these appears to be the case, should one delay in reaching a judgment. For many things, of every kind, have been taught for a long time, and many things have been asserted against Scripture, which now, as being empty, have completely fallen into disuse; likewise, not a few things concerning certain passages of Scripture (which are not properly matters of faith, but rather pertain to rules of interpretation) have been proposed in such a way that a more thorough investigation later revealed them to be incorrect. Indeed, the commentary on opinions changes with the passing of days; but "the truth remains and grows eternally" (1). Therefore, just as no one should presume that he fully understands Scripture, and as Augustine himself said, that he knows many things that he does not know (2), so too, if something should prove to be more difficult to explain, let everyone take care and exercise moderation, following the example of that Doctor: "It is better to remain silent in ignorance than to speak uselessly and, by interpreting wrongly, to insert a yoke of error into the neck of the Church" (3). Moreover, Our Counsel will be most fruitful and effective for those who pursue these studies, if, both in writing and in teaching, they direct the fruits of their studies to refuting the enemies of truth, to preventing damage to the faith in youth, and thus they will be able to rejoice in serving the sacred Scriptures, and to offer that help to the Church which she promises to her children through piety and instruction. These are the things, Venerable Brothers, which We have considered it opportune to mention and to prescribe concerning the study of the sacred Scriptures, with the help of God. Let it be your care to see that these things are diligently guarded and observed, so that, by the due grace of God, the words of His wisdom, communicated to the human race, may bear witness more clearly, and that the hoped-for benefits may abound, especially for the instruction of the sacred youth, which is of such great concern and hope to the Church. Therefore, with authority and encouragement, give zealous effort to ensure that these studies flourish and thrive in Seminaries and Academies within your jurisdiction.

(1) III Esdras 4:38.

(2) *Confessiones* I, 21.

(3) *Ad Januarium*, epistle L V, 21.

(4) *De Doctr. Chr.* III, 9, 18.

[*Latin ed. p. 292*]

292 ENCYCLICAL LETTERS, flourishing, O Church, according to the most wholesome documents and the praised custom of the Saints and of our forefathers: and may such additions be received with the passage of time, so that they may be a defense and a glory of the Catholic truth, born of God for the eternal salvation of the people. — Finally, we paternally

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admonish all students and administrators of the Church, so that they may always approach the sacred Scriptures with the utmost reverence and piety: for it is not possible for the understanding of these to be salutary, unless it is freed from the arrogance of earthly knowledge, and inflamed with the holy zeal for that which is above. Once the mind has been admitted into this discipline, and thereby illuminated and strengthened, it will wonderfully surpass even human knowledge, discerning and avoiding what is deceptive, recognizing what is solid, and referring all things to the eternal: from this, the soul will most readily burn with the desire for virtue and contend with a more fervent spirit of divine love: "Blessed are they that search his testimonies: that seek him with their whole heart" (1). Already, relying on divine assistance and with regard to your pastoral zeal, we impart to you all, to the entire Clergy and to the faithful people, our Apostolic blessing, a pledge of heavenly gifts and a witness of Our singular benevolence, and we bestow it upon you with all our heart in the Lord. Given at Rome, near St. Peter's, on the eighteenth day of November, in the year one thousand eight hundred and ninety-three, in the sixteenth year of Our Pontificate. LEO XIII, Pope. (1) Ps. 118:2.

[*Latin ed. p. 293*]

293 FROM THE HOLY CONGREGATION OF THE COUNCIL OF AUTUN. ON MARRIAGE. July 15, 1893. Session 24, Chapter 5, Concerning Reformed Marriages. SUMMARY OF THE CASE. Alexander Chaullet, born in the town of Saint Yrieix, in the diocese of Limoges, while residing in Autun, where he worked for wages, and serving as a soldier (ordinanza) under the commander of his legion, came to know a young woman, barely sixteen years old, named Joanna Machin, who, together with her mother, served as servants in the household of another commander of the same legion. He became so enamored of her that he resolved to marry her and requested her hand from her mother. But Joanna, who, it seems, already loved another soldier, resisted Alexander's pleas; so much so that, after completing his military service, having lost all hope of winning the young woman's affection, he left Autun and returned to his homeland. However, Joanna's mother, who greatly desired that her daughter marry Alexander, urged her to change her mind and to incline her heart towards Alexander. The young woman, after four or five months, informed Alexander of the change in her feelings and invited him to the wedding. He gladly accepted the invitation, returned to Autun, established a home there, and, five days later, on December 4, 1886, he duly entered into marriage with Joanna. But he immediately regretted the beginning of the marriage. For Joanna herself, on the very day of the wedding (as is reported), declared to Alexander that she had been forced into the marriage by her mother's pressure, that she had never loved him, and that she would never love him in the future.

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Indeed, even though she lay in the same bed with Alexander,

[*Latin ed. p. 294*]

294. In Autun, it is reported that she could never be persuaded, neither by flattery nor by force, to fulfill her conjugal duty to her husband. Indeed, the woman repeatedly fled to her mother's house. After twenty-nine months, Alexander, weary and suspecting his wife's infidelity, rejected her and initiated a civil divorce proceeding. Having easily obtained this, and in order to consult his conscience, Alexander approached the Bishop of Autun, and through him, implored the Holy See to declare his marriage null, both because it was unconsummated, and because it was likely invalid due to the fear and coercion inflicted upon the woman. In the letters which the Bishop of Autun sent to the Holy See at that time, the following was written: "The investigation of this case is indeed very difficult, because the woman, living far from the city of Autun, almost as a common prostitute, and moreover, having already obtained a civil divorce, no longer fears that she might be compelled to return to her conjugal home, and she does not care at all whether she is permitted to contract another legitimate marriage; rather, she seems eager to leave her husband, Alexander Chaullet, in sorrow and difficulties. Therefore, the condition of this young woman is certainly more unfortunate and deserving of compassion. Therefore, I humbly and earnestly implore Your Holiness to deign to have mercy on her. The Bishop of Autun testifies that Alexander Chaullet appears to be a good man, and that he has earned the esteem of all who know him. This modest craftsman possesses only a small estate in the Diocese of Limoges, and that after the death of his parents; now, however, he lives from his daily work, and therefore, he earnestly requests that the expenses of this case be kept to a minimum." The Holy See, heeding the prayers, ordered the Ordinary of Autun to conduct a process, both regarding the nullity and regarding the lack of consummation of the marriage, and regarding the causes for a dispensation, according to the laws, even with the faculty of delegating as necessary. Obeying this mandate, the Archbishop took care to conduct the process as correctly and quickly as possible. And on March 25th of the year 1891, the acts of the process were sent to the Sacred Congregation."

[*Latin ed. p. 295*]

AUTUN. Writing from there on the 295th day, he stated: "The husband and eight witnesses were questioned, but the woman could not be brought before the Tribunal for examination, and lacking any means of compelling her, it was necessary to end the proceedings without her being questioned. From now on, midwives cannot be usefully examined, and knowing the answers of others, especially the mother, her testimony can be omitted with less inconvenience... The officials, after examining the witnesses, and the defender himself, are convinced that the marriage was not consummated,

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and that the dispensation requested is useful and necessary for Alexander Chaullet, who, being younger and without a family, greatly desires to marry." Later, however, when Joanna returned to Autun, she was able to be questioned; and her answers confirmed the lack of consummation of the marriage. A Synopsis of the Discussion. THEOLOGIAN'S OPINION. After reviewing all that preceded the marriage, the Consultor, in his opinion, judged that the marriage was contracted under duress and fear, and therefore was not valid. Then, the Consultor continued, stating that, as all agree, for a marriage to be valid, the true consent of the contracting parties is required, both internally and also externally manifested. This is clear, especially from the particular nature of this sacrament, which essentially involves the will of those contracting; for without the internal consent of the contracting parties and the external manifestation of it, it cannot subsist; Dall'Occa. Furthermore, in order for this full consent to be present, it is required, says Cosci, that there be total freedom and security. For, as can be seen in Liguori, Alexander III defined: "Where there is no place for consent where fear or coercion intervenes, it is necessary that, where the assent of each is required, the matter of coercion be removed." Marriage is contracted solely by consent, and it is asked of you, that you enjoy that full security, whose nature must be investigated.

[*Latin ed. p. 296*]

296 AUGUSTODüNE. The mind must be investigated, the Pontiff teaches: "Because the Church," adds St. Thomas, "must not presume anything about any sin until it is proven. But if someone says that they consented and did not consent, they have sinned. Therefore, the Church presumes consent. Consequently, marriage is presumed to be free, unless it is proven to be forced. And therefore, fear is not presumed unless it is proven." – Grassi. Fear, according to jurists, following Ulpian, is the trembling of the mind due to an imminent or future danger; but not every fear produces this effect, only a grave one; namely, that which can move and compel a strong man, because the evil is grave in itself, and the one who inspires fear is powerful, and is likely to carry out the evil, considering the person's character; and meanwhile, the one experiencing the fear cannot easily remove the impending evils, either by themselves or through others. Someone is compelled by fear, writes St. Thomas, when they do something that they would otherwise not want to do, in order to avoid something else. And it is called grave in order to distinguish it from a slight fear, which is not able to move or deter a strong man, because the evil is in itself not grave, or if it is grave, or if it is not likely to occur, or if it can be easily removed. Therefore, it is clear that a slight fear can become grave, depending on the character of the person, who is shaken by lesser evils just as a strong man is by greater evils, as happens with women, children, and the elderly...; in whom, however, a slight fear is considered

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grave, when the increase of the fear proceeds from a defect of the mind, which cannot naturally be overcome. Among grave and slight fears, there is also that which is called reverential fear. This, says St. Alphonsus, is not fear itself, but reverence, which does not induce fear of any evil, but only a certain blush, which truly proceeds not from an external source, but from within. But it becomes a grave fear whenever it is joined with threats, beatings, or the fear of another grave evil. Therefore, the most holy Council of Trent teaches that the Church has always detested marriages entered into...

[*Latin ed. p. 297*]

AUGUSTODUNEN. 297, contra la voluntat conscient o raonable dels pares; però això només per raó del pecat, ja que és contrari al respecte degut als propis pares. Però el mateix Concili anatematitza aquells que afirmen falsament que els matrimonis contractats pels fills de la família sense el consentiment dels pares són nuls, i que els pares poden fer que aquests matrimonis siguin vàlids o nuls. I, en efecte, en allò que respecta l'adopció d'un estat de vida permanent, és a dir, perpetu i indissoluble, no es pot gaudir de la restauració a la integritat; és necessari que el fill també sigui legalment capacitat. Per tant, els pares han d'advertir, amb raó i amb dret, no menys que per obligació i càrrega natural, als seus fills, persuadint-los, no forçant-los amb amenaces a contraure el matrimoni, ja que una acció així es considera injusta; ja que, mitjançant tal por, es perjudica la llibertat i el dret d'un altre, cosa que faria que el matrimoni fos nul. — Capítol que ve a Sant Alfons. — Cal afegir que "quan qui infundeix por té interès en celebrar el contracte..., només la por reverencial es considera suficient per validar el contracte". — Barbosa. Per tant, examinant aquests modes, o principis, condicions i circumstàncies del matrimoni del qual es tracta, es pot fàcilment comprendre fins a quin punt aquests són anormals. Tot i això, després d'una petita observació, es pot dir que les paraules i els signes externs de la núvia Joana poden ser considerats com un consentiment vàlid en l'acte matrimonial, però en absolut no semblen correspondre amb els seus sentiments interns. Les paraules o els signes expressen el consentiment de l'ànima, però si no corresponen verídicament i profundament a aquesta, el matrimoni no es perfecciona. El consentiment és el que ho fa; no les paraules; però aquestes són necessàries en la seva veritat; altrament, l'ànima, és a dir, el consentiment més íntim, no es manifesta. Pel que fa a la seva primera vocació al matrimoni, i tant abans com després de prestar el consentiment sacramental, Joana es va mostrar contrària al marit Alexandre. Per provar aquesta oposició, Coscius exigeix que es provi amb testimonis, als quals l'actriu va manifestar aquesta seva repulsió.

[*Latin ed. p. 298*]

298 AUGUSTODUNEN. Ignorance and aversion. But from what has al-

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ready been presented, both Joanna herself, and her mother, as well as the witnesses called by the husband, all affirm this with an oath; and nothing further has been presented, either said or done, to remove such repugnance. Therefore, since there exists such an aversion of the inner mind, which denies the required consent, and at the same time, there are also external signs or words of this mind, which seem to affirm that consent; from all that has been predicted and considered in this case, it is established that this external consent, by its very contradiction, demonstrates that it was extorted by force and fear. Regarding the woman, the Sacred Roman Rota has declared that fear is considered proven if witnesses testify about her aversion towards her husband, both before and after the marriage. And indeed, this is what was affirmed about Joanna; moreover, they added that they believe the woman's consent was not free and spontaneous, but rather was truly compelled by force and fear; namely, by force and fear, especially that of her mother, by whom that unjust woman was urging her daughter to marry. This urging, or compulsion, to the end of contracting the marriage, causes the fear instilled to invalidate the marriage itself, as is found in St. Alphonsus and many other authors, as is his custom, cited and commonly, as is evident from chapter [reference missing] and chapter [reference missing] concerning marriage. However, since it has already been said that fear, even if not slight, but only grave, affects the validity of conjugal consent, it appears that the fear to which Joanna was subjected was grave, and, considering the person's character, should be equated to the same fear that would befall a steadfast man. It is worth noting, as Cosci says: "Whenever true and free consent is lacking in contracting marriage, so that the marriage is null, whether the consent LACKS because of threats and violence, or because of grave or slight fear, provided that the fear is such, or IS CONSIDERED SUCH, that it can compel [the person]." In the case of Joanna, it was a matter of abandoning worries and maternal cares, of leaving the home to live elsewhere, of losing servants to provide for food and clothing.

[*Latin ed. p. 299*]

AUGUSTODUNEN. 299 Concerning hidden affection, and public honor. It was as if, I said, she was being treated as if she were a young girl, so inexperienced in managing her affairs, and still so beloved and so greatly feared by her mother, as previously stated. And, if one considers the threats of this mother in relation to the special circumstances of the girl, it will clearly appear how great was the fear with which she was terrified. Among the evils, the fears of which are considered grave by the Doctors, are the loss of goods of great importance, of profit, and the loss of status or honor. And these three evils, as it is fitting to emphasize, were feared by Joanna; she feared losing her mother, in whom she had placed all her possessions; she feared losing her servant, from whom she derived all her profit; and

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she feared losing her honor through scandal, if she were brought before the magistrate. Because of this fear, especially of this scandal, she declared that she had given up her opposition and showed that she consented to the marriage. Therefore, the fear of losing her mother was so great in her, that, as stated above, she became mortally ill. And since no fear can be conceived to be greater than that which endangers life, it seems that a similar fear seized her and led her to give her consent to Alexander in the celebration of the marriage; indeed, it was most grave. It is therefore clear that the mother unjustly compelled her daughter, violating her freedom; she compelled her to consent to a marriage, for her own benefit; she compelled her through reverential fear and with grave threats. But, according to the unanimous opinion of the Doctors, any fear arising from such coercion is sufficient to invalidate the marriage. Therefore, the marriage of Alexander and Joanna should be considered and is entirely null. Furthermore, Joanna would add to confirm this nullity, saying that, not only did she consent under duress and out of fear, but that she almost did not know what marriage was, nor the obligations of a wife; adding that, if she had known, she would never have agreed to marry, as she had been. However, it must be noted that she did not say that she was ignorant; but rather that she did not fully understand.

[*Latin ed. p. 300*]

300 AUGUSTODUNEN. to live, that is, fully and perfectly. From all that has been written in the process and repeated above, it does not seem easy to admit such a presumption of ignorance. However, this ignorance would not invalidate the marriage, since she generally consented to her marriage, that is, to all that pertains to marriage. For in contracts, it is not required that one consent expressly to each particular detail, but it is sufficient that nothing be excluded. Otherwise, a large part of young women, distinguished by their discipline and morals, could claim this ignorance against their existing marriages. Which does not happen, nor is it admitted. Furthermore, to invalidate the marriage, another argument is presented, based on the assertion of a lack of love from the woman's heart towards the man; a lack, indeed, an aversion, which, as has been shown, was present in Joanna to such an extent that it could not have been greater. Nevertheless, it should be noted that, while mutual love is indeed desirable to lead spouses to marriage, since it is the perpetual and indissoluble bond of love; nevertheless, it is not the love of the heart, or of the senses, that constitutes the marriage, but rather the love of the mind, or the consent of the will: hence, it is never contracted without consent, but certainly without love; as is often demonstrated by judgments and daily experience. However, the observation previously mentioned, to the advantage of the same nullity, is pertinent when, for the sake of the name of love, the affection for marital intercourse is understood; which is indeed an essential end of marriage, not

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necessarily to be exercised, but voluntarily; so that it may not be excluded by one alone, but by both spouses. For it is certain, and commonly among the Doctors, that if someone contracts marriage, positively excluding this end, or not rendering the due obligation in their mind, they would not only sin, but would not enter into any marriage. Joanna had said several times that she did not love Alexander, nor would she love him, and this statement could be understood as an exclusion of marital intercourse. Indeed, she repeated this when she returned to her husband, who was trying to treat her as his wife; and she repeated it again when she told the doctor that she did not know her husband; adding that she would never know him.

[*Latin ed. p. 301*]

AUGUSTODUNEN. 301 In her confession before the ecclesiastical judge, Ipja admitted that she had consistently refused to consummate the marriage, and especially to engage in acts that would lead to procreation; she asserted that, because she knew what marriage entailed before giving her consent, that is, before the agreement was made, she had not unjustly refused to complete it. But this confession of hers presents a contradiction; for she could not have been excused on the grounds of ignorance, and therefore the words of affection, which she frequently used, could not have carried the real meaning of a permanent union; she demonstrated that she was ignorant of what marriage meant, since she was unaware of its nature. But I believe that, without introducing new arguments, it is sufficient that it has been proven and established that this marriage was invalid because of the lack of free consent, due to coercion and fear; therefore, it did not exist, but rather dissolved and became null. It may perhaps seem almost superfluous to investigate whether a marriage of this kind was consummated. For, given that nullity, those who were not joined in matrimony acted correctly. "Marriage does not consist in the act of copulation," says Chrysostom, "but in the will." Nevertheless, such an inquiry, if it seems superfluous to obtain a dispensation regarding a valid marriage, since a null marriage does not require a dispensation; it will nevertheless be a very useful argument in confirming that very nullity. Indeed, it confirms how much aversion there was in Joanna towards her husband, Alexander. It has already been explained that, at the very beginning of the marriage, when they were together in the same bed, the newly married couple quarreled, barely as the husband approached his wife to consummate the marriage. She, for her part, refused, and loudly protested, fleeing. If the attempt at copulation was the cause of the flight, then this flight demonstrates that the conjugal union was not consummated, due to the aforementioned resistance. If, after an act has been performed, there follows a flight on the part of the one who performed it, then it is presumed that he performed it against his will, as Mascardus argues. And Menochius adds: When he who is said to have contracted marriage, after the marriage, acts in a way that

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contradicts the marriage...

[*Latin ed. p. 302*]

302 AUGUSTODUNEN. The act was avoided, and it was then presumed that she had done so out of fear. It is true that, on successive days, the same spouses resumed their domestic life, even sleeping together; but they never consummated their marriage. Therefore, the husband constantly insisted that he did not want a servant, but a wife. For this reason, he frequently urged her to fulfill her conjugal duty. He used gentle words and flattery, and even tempted her with gifts and presents. She, in turn, gladly accepted these, and eagerly awaited new gifts; but when the man repeatedly and urgently demanded the consummation of the marriage, she gave him nothing but words and excuses, trying to delay the matter day by day, and always making promises. Indeed, if he insisted even a little more, the woman would raise cries, and, rebuking him, would flee to her mother. Therefore, Alexander lamented these imprudent ways of acting, and he implored his mother-in-law to restrain her daughter, and to compel her to fulfill her duties as a wife. But all persuasive words, and even the gentle and harsh methods that the mother skillfully and diligently employed, finally had to acknowledge that they had returned with an unyielding spirit. And after threatening her daughter, saying that if she did not yield, her husband would abandon her, she heard the reply: "The sooner, the better." Already a year had passed since the marriage, when Alexander, three hours after midnight, having been overcome by anger against his wife, and unwilling to inflict violence upon her, immediately went to the bedroom of a certain person, to whom a lodger was attached, and, weeping, recounted in confusion the obstinate resistance of the woman. The witness, who affirms this, then replied to him: "Although she might be strangled, it would be necessary for her to yield, as long as she was with you." Almost the same thing was exclaimed by Alexander's sister-in-law: "If I were the wife, I do not know what I would do." But Alexander, being naturally good, gentle, innocent, and even simple, as he was commonly known, never dared to proceed to extreme measures. And later, he confirmed that his marriage had not been consummated. Around the same time, that is, after a year from the marriage,

[*Latin ed. p. 303*]

AUGUSTODUNEN. In the year 303, to certain young girls who, as was conjectured, were about to bear children to her, Joanna replied: that she deceived them, since she could affirm that she, like them, was a virgin. This response was truly bold, but perhaps sincere, if considered in relation to her dealings with Alexander. It is also to be noted that the spouses endeavored to conceal what had happened to them, perhaps so as not to be ridiculed, and especially the man, since he had encountered her several times; and

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the woman, so that she would not be recognized as married. However, without contradiction, all those who were called as witnesses and swore an oath affirmed that these spouses had not violated the mutual rights of husband and wife. Among the woman's frequent excuses was that she was of poor health. Therefore, the husband, desiring to know whether she suffered from any infirmity that might impede the use of marriage, requested a physician to be brought to her; and he left the physician alone with her in the room, while he himself hid behind a wall, so that he might listen at the door to what they said. And he heard the woman saying that she had never ceased to resist her husband, and that she would never yield; for she did not please him, and she did not love him; and she added that it would never happen that she would love him. And when the physician expressed doubt, she replied that she would allow her husband to have relations with her, if Alexander were another man, who would be worthy of her. Then the physician himself testified that the woman demonstrated her fidelity by her fluent and consistent speech, saying the same things that the husband himself affirmed. Having heard this, he was deeply grieved, and finally, convinced that his own situation would not improve by further delay, and seizing the opportunity, he rebuked her for her faults and wicked actions; and, overcome by anger, he struck her violently and cast her out of his presence and from his home. But afterwards, she asserted that she left, because she could not endure Alexander's suspicions, and his perversities. But whether the woman left, or whether the husband cast her out, it makes no difference. Rather, it should be considered that, since the spouses lived together under the same roof, at the same table, and in the same bed for six months and a year, without any interval of time; it is maintained that they did not neglect their conjugal duties. This is a fact.

[*Latin ed. p. 304*]

304 AUGUSTODUNEN. Indeed, it appears more true than otherwise, especially when dealing with a woman who is not ignorant of the man's intentions. From a prolonged conversation of this kind, the theologians held the opinion that, in a case of doubt concerning the consummation of marriage, one should rather lean towards the affirmative, until perhaps a very strong contrary proof is presented. However, it is evident from the facts that the woman, Joana, had resided at home with the man, Alexander, and that she and her mother were supported by his expenses, as Alexander himself asserted, and as certain witnesses, well-informed about their lives, confirmed. Furthermore, although she was averse in spirit, she nevertheless, through the external ceremonies of marriage, believed herself to be so joined to him that she could not be separated from him; and she was ignorant of what divorce was. However, she had in her mind a certain confused presumption of some event, from which a separation would occur between them. She later acknowledged that marriage is not valid without

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the consent of the mind; she acknowledged civil divorce; and, as far as she was concerned, she intended to marry the aforementioned soldier, writing to him not to take another wife in the meantime. The husband, Alexander, confessed that he had kept her with him for so long, hoping to win her over with promises, flattery, and gifts, never resorting to violence; and that he hoped that she would eventually overcome her stubbornness and become docile to the marriage. Indeed, he was not entirely wrong; for the woman acknowledged that she had refused to fulfill her marital obligations; meanwhile, she constantly and daily postponed the fulfillment of those obligations to the next day; although she could not fulfill them later. She said that her aversion was stronger. Given such simplicity on the part of Alexander, and such aversion and reluctance on the part of Joana, it seems neither surprising nor remarkable if such spouses have lived together, and even if they still do; and if they do not know each other; certainly, in the present case, they did not know each other due to the strong antipathy and aversion that the bride felt towards the groom, both before and, especially, after the beginning of the marriage.

[*Latin ed. p. 305*]

AUTUN. 305. He demonstrated and fostered affection for them, even beyond their separation. Therefore, if, as Catholic experience teaches, a dispensation were ever to be obtained from the supreme and unique authority of the Supreme Pontiff regarding a marriage between Alexander and Joanna that was valid but not consummated; such a lack of consummation, undoubtedly, could be asserted within the same Apostolic See, provided that the man and the woman declare it, and their mother and all witnesses affirm that they believe it, and no one else denies or doubts it. Furthermore, all possibility of reconciliation between their souls and lives has vanished. Furthermore, the causes that are also due and required, and suitable for obtaining this dispensation, would not be lacking, and in particular: the wife's aversion to the husband; the invincibility of such aversion and repugnance; youth, which, whether in a man of 32 years or a woman of 23 years, incites to new and more promising marriages, and to the formation of families; the wife's withdrawal from the bond of marriage; the removal of public and private scandal. These causes, and others similar to them arising from the process, do not seem to require greater clarity or proof. It is well known how much favor and grace are often found with the Supreme Pontiff for the good of the public or the salvation of souls. Finally, to crown it all, the Bishop of Autun wrote: "The officials, after examining the witnesses, and the Defender of the Bond himself, are convinced that the marriage has not been consummated, and that the dispensation requested regarding this impediment would be useful and almost necessary for Alexander Challet, who, being younger and without a family, greatly desires to marry." But such a dispensation, I say with all due respect, should not be invoked if

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there is no argument for the dispensation, as it seems to me. For, according to the very law, by the judgment of a judge, the marriage is not made invalid, but only the declaration of invalidity; for the laws presuppose that marriages contracted with grave fear are invalid due to a lack of consent. Thus, *Cum locum*. When, therefore, a marriage is examined and declared null, Tom. XXVI. fase. CCOV. 20.

[*Latin ed. p. 306*]

306 AUTUN. It is clear, unless I am mistaken; rather, it remains necessary to humbly declare the nullity of such a marriage. OPINION OF A CANONIST. "None of you, esteemed Fathers," said the Consultant, "are unaware that a certain fear, which they call 'reverential,' is sufficient to invalidate a marriage, provided that certain circumstances concur, such as the fear of some serious harm, threats, importunate requests, to which it is difficult to object, or indeed any other serious circumstance of this kind. In such cases, the reverential fear is considered grave, i.e., it affects a man of constant mind, and renders the marriage null by lack of consent. For 'there is no consent where fear or coercion intervenes.' Alexander III, chapter 14, title I, book IV, Decretum Gratiani. Given this, from the process completed in the court of Autun, it is clear that Joanna Machin did not contract marriage with Alexander Chaullet freely, but through the actions and machinations of her own mother, who, for this purpose alone, used repeated persuasions, requests, and threats, in order to compel her daughter into marriage. This is evident from the deposition of the mother herself, Francisca Machin, who in question 6 confesses that the celebration of the marriage was repeated due to coercion exerted by her own daughter. In the following question, she details the methods she used to persuade her daughter to marry. "I forced her in every way. I told her that I would no longer love her. I had given her a certain number of objects. I returned them to her, and she was so emotionally affected by this that she became ill and nearly died." Furthermore, Francisca, the mother, was not alone in trying to persuade her daughter to enter into marriage, but used other people as a means and instrument to obtain the marriage for her daughter. Nor does the advocate, Alexander Chaullet, speak differently, from whose sworn deposition it is clear that Joanna initially refused the proposal of the first marriage, but subsequently consented to the marriage through the persuasions and threats of her mother. All of this, if considered, leaves no doubt that Joanna was subjected to fear, and that this fear was of a kind that affects a man of constant mind.

[*Latin ed. p. 307*]

AUTUN. 307. A steadfast man. However, given the evident existence of an unjust fear, there is no reason to doubt that Joanna Machin, compelled and passively influenced by this fear, entered into marriage. This is first evi-

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dent from the circumstances that accompanied the marriage. On the fateful day when Joanna was to contract marriage with Alexander, when the ecclesiastical rites had begun, and the Parish Priest asked Joanna whether she wished to marry Alexander, Joanna responded in a manner that clearly indicated that her consent was not internal, voluntary, and free to enter into the marriage. Not only from the circumstances that accompanied the marriage, but also from those that followed the same marriage, it is shown that Joanna did not marry Alexander freely, but under the influence of fear. Indeed, from the very first day that the spouses entered into marriage, until the last day when they were separated from each other, they never showed mutual or marital affection. This Joanna confessed to several people, especially to Frederick Ohauchon, the Augustodunensi physician, and Alexander testified. From what has been said so far, it is sufficiently and abundantly clear that Joanna Machin was subjected to a grave fear by her own mother, and that she entered into marriage with Alexander Chaullet under the influence of this fear. Furthermore, if the arguments and testimonies presented to you, esteemed Fathers, do not seem sufficiently suitable to conclusively prove the coercion and nullity of the marriage, it remains to be seen: Whether it is necessary to consult with the Most Holy [authority] regarding a dispensation for a marriage that was consummated and not consummated in this case. The principal condition for obtaining a dispensation is that the marriage has not been consummated. Indeed, the first argument for the non-consummation of the marriage in this case is derived from the sworn testimony of both spouses. For this reason, the husband began to doubt his wife's ability to have intercourse, and he wished that she be examined bodily by a physician.

[*Latin ed. p. 308*]

308 AUGUSTODUNEN. Several witnesses confirm the deposition of the spouses. And the mother of Joan confesses that her daughter had, both before and after the civil divorce judgment was pronounced, confessed to the lack of consummation of the marriage. It cannot be denied that the civil magistrates, in pronouncing the divorce judgment, did not utter a single word about the woman's repugnance to performing conjugal acts; for this must be understood from the testimony of the advocate Aloysius Joseph Cognet, who, considering other reasons and other legal proofs for obtaining the divorce judgment in favor of his client Alexander, did not insist on the argument of the woman's repugnance to consummating the marriage, as if it required more difficult proof. The lack of consummation of the marriage is also testified to by Lazaretta, the wife of John Maillard, who states that she frequently experienced this, both before and after the separation from Alexander, and by the mother of Joan. Lazaretta did not believe in Joan's illicit loves. In addition, there are the testimonies of Mathildis Maillard and Dr. Frederick Ferdinand Chauchon-Latouche. To the sworn

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depositions of the spouses and witnesses, proof derived from a physical examination of Joan would have had to be added. However, from the procedural documents, it is clear that she could scarcely be brought before the ecclesiastical tribunal after some time. Furthermore, an examination would be useless, since she lives in a manner befitting a prostitute. Although this proof is lacking, nevertheless, from the evidence presented, we can morally be certain that the marriage was not consummated. Given the lack of consummation of the marriage, jurisprudence requires legitimate reasons for granting a dispensation. And having examined the proceedings and having before our eyes the letters of the Bishop of Augustodunum, we have a) the greatest aversion of the woman towards the man, and of the man towards the woman, and no hope of reconciling peace, which is considered a very serious obstacle to granting a dispensation. From all of this, I believe that the marriage is null. And if this is not admitted, recourse must be had to the Most Holy [See of Rome] for the grace of a dispensation.

[*Latin ed. p. 309*]

AUGUSTODUNEN. 309 OBSERVATIONS OF THE DEFENDER OF MARRIAGE FROM THE OFFICE. In the year 1886, on the 4th of December, Alexander Chaullet, being 25 years of age, entered into marriage with Ioanna Machin, who was 17 years old, and they lived together in marriage for 18 months. On the 18th of June, 1888, he divorced his wife, and after the marriage had been dissolved by the secular authorities, he declared before the ecclesiastical judge that the marriage was invalid, alleging that Ioanna had been compelled to marry Alexander by threats and fear from her mother, and that the marriage was also invalid due to the wife's reluctance to fulfill her marital duties. Learned consultants, theologians and canonists, have granted Alexander's request. However, it does not appear to me that there is any basis for either the nullity of the marriage or for its lack of consummation. Regarding the alleged fear, the witnesses state: "The mother treated her daughter as an imbecile if she did not accept this marriage, and even threatened to put her out of the house if she persisted in her refusal." Indeed, the mother herself admits: "I forced her in every way; I told her that I would no longer love her. She had given me a certain number of objects. I returned them to her, and she was so emotionally affected by this that she fell ill and nearly died." But all of this is entirely alien to the truth, and indeed, it is greatly exaggerated. How could the mother have put her daughter out of the house when she was living with her, and when both mother and daughter were living in different households? Furthermore, Ioanna was not the type of person who would be terrified by ghosts, as the witnesses report. What more? When Mathildis Maillard questioned the judge, "According to you, what led her to make this decision?" she replied clearly: "According to what she told me, I believe that she decided to marry in order to have more

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finery, and perhaps also to be more free, or rather, to more easily conceal her behavior. She asked me several times: Will I be more free? Will I be able to go dancing?" Moreover, the assertion of the marriage's lack of consummation is not proven; for the witnesses, neither in the ecclesiastical nor in the civil court, were able to establish this fact. Furthermore, except for Ioanna...

[*Latin ed. p. 310*]

310 AUGUSTODUNEN. Concerning the mother, who does not exhibit sanctity, the spouses Maillard, whose home was inhabited by Alexander and Joanna, were instructed as witnesses regarding the matter, before other witnesses. But then, at Lazaretta, the spouses Maillard spoke in such a way that one may rightly doubt whether the matter concerned Joanna's repugnance to consummating the marriage, or rather, to Alexander's desires for intercourse; which would not be surprising, since Joanna fostered illicit affections. Given these circumstances, I consider it superfluous to speak of the reasons necessary for a dispensation: and without delay, I humbly request a response to the aforementioned doubts: "No, to both." Having stated these things, the following question was posed: Whether it is necessary to consult with the Most Holy [Father] regarding a dispensation concerning a marriage that is valid but not consummated. RESOLUTION. After deliberation by the Sacred Congregation on July 1, 1893, it was decided to respond: "Affirmatively." FROM THE SACRED CONGREGATION FOR INDULGENCES IN GANDAVENSIS, concerning the recitation of the Most Holy Rosary in common. On November 13, 1893. The Vicar General of the Diocese of Gandavensis presented to the Sacred Congregation for Indulgences and Sacred Relics that in the authentic collection of Decrees of the same Sacred Congregation, published by His Holiness Pope Leo XIII in the year 1883, a Decree exists under number 384, of this kind: "Of the Order of Preachers." "With the prayers of the Reverend Procurator of the Order of Preachers to this Sacred Congregation for Indulgences and Sacred Relics, the Most Reverend Fathers, in the general assemblies held at the Vatican, on December 11, 1857, considered the following question: Whether, namely, it is necessary to consult with the Most Holy [Father], so that He may deign to grant that all..."

[*Latin ed. p. 311*]

FROM S. C. INDULGENTIARUM 311: "Those faithful who recite the Rosary or one-third of it in common, may obtain the Indulgences granted by Pope Benedict XIII, even if they do not hold the Rosary in their hands, and it suffices that only one person, whoever it may be from the community, holds it and uses it in that manner?" After careful discussion with the opinion of the Consultor, they responded: "Affirmatively." Therefore, according to S. C., the Secretarius SS. D. N. Pope Pius IX, in a faithful

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report on the day of January 22, 1858, after inclining his head in prayer with the Procurator General of the same [order], and approving the opinion of S. C., benevolently agreed, but with the express condition that all the faithful, setting aside all other cares, should prepare themselves for prayer together with the person who holds the crown, so that they may obtain the Indulgences of the Rosary."

Now, the meaning of those words "setting aside all other cares" is questioned by this S. Congregation. Furthermore, S. C., after mature deliberation, judged that the following should be understood: The faithful should abstain only from those external occupations that impede internal attention for the devout recitation of the Rosary, as prescribed for obtaining indulgences.

Given in Rome, from the Secretariate of the same S. C., on November 13, 1893.

Fr. IGNATIUS Card. PERSICO, Prefect.

L. & S.

Archbishop of Nicopolis.

Secretarius.

[*Latin ed. p. 312*]

312 EX 8. FROM THE CONGREGATION OF RITES IN MILAN. Decree concerning the Beatification and Canonization of the Venerable Servant of God, Bartholomew Canale, Priest, of the Congregation of Clerics Regular of Saint Paul, the Barnabites. CONCERNING THE DOUBT: Whether a miracle should be sought in this case, and the Commission for the Introduction of the Cause. Among the Italian peoples, and especially in Insubria, many have flourished in the reputation of holiness; among these, Bartholomew Canale, a member of the Barnabite Congregation, deserves to be remembered. Born in Milan on December 10, 1605, to parents of modest means but endowed with exceptional virtues, he was cleansed in the font of baptism and received the name John Anthony. After a commendable youth spent in his homeland, as soon as he was of age, he dedicated himself to the discipline of the Society of Jesus, entering their schools, among which was the College known as Brera. For several years, while residing in the same College, he displayed all virtues to the highest degree, especially admirable chastity. While still devoted to his studies, he offered himself for the clerical militia; inflamed with a greater desire for perfection, he earnestly requested to be admitted to the Congregation of Clerics Regular of Saint Paul, the Barnabites. Having made his vows, and taking the name Bartholomew, he embraced prayer with such fervor that the most esteemed men, who were most familiar with him, affirmed that they had never known Bartholomew to have been able to do anything that a notary could not have recorded. He never wavered in his former zeal, even when entrusted with various and

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difficult tasks. With the permission of his superiors, he chose a small and inhospitable dwelling, where he could dedicate himself to contemplation of divine things. But, as God willed it, he was appointed as a Confessor in the Angelic Church of Saint Paul; although lacking strength and always suffering from poor health, he fulfilled that important office with extraordinary skill for three full years. Subsequently, he was appointed Prefect of the College of Saint Aureliani, and he fulfilled the duties entrusted to him, namely, the cultivation of the religious youth, with incredible patience and gentleness. Finally, obedient to his superiors, he was sent to [a place name omitted in the original text], where he served the entire Province.

[*Latin ed. p. 313*]

From the Sacred Congregation of Rites, number 313, it is stated concerning the founding of colleges for young men: that their minds be instructed in religious perfection. Finally, afflicted by a deadly illness, and seeking no remedy save that which he found in the constant meditation on the sufferings of our Lord Jesus Christ, he departed this life on January 27, 1681, having reached old age and the end of his labors, and at that hour he said that he died with sanctity, so that, as a result of this precious death, his reputation for sanctity might be confirmed by the Ordinary Inquisition, and that his virtues might be known in the court of Milan. After this was duly completed, and presented to the Sacred Congregation of Rites, the Most Holy Pope Leo XIII granted permission that a doubt concerning the introduction of the cause of this Servant of God might be considered in the ordinary meetings of the aforementioned Sacred Congregation, without the intervention or vote of the Consultors.

Therefore, the following doubt was presented to the Cardinal Prefect of the aforementioned Sacred Congregation, by the Reverend Father Alphonso M. Mattioli, a priest professor and General Postulator for the causes of beatification and canonization of the Servants of God, from the Congregation of Regular Clerics of Saint Paul, the Barnabites, and with the attentive letters of many Eminences and Reverend Cardinals of the Holy Roman Church, and of other men of ecclesiastical and civil distinction, in the ordinary meeting of the Sacred Congregation, held at Vatican, the following doubt was proposed for discussion: Namely, whether a Commission for the introduction of the cause should be appointed in this case and for this purpose. And the Sacred Congregation itself, after mature deliberation, and after hearing the written and oral opinion of the Reverend Father Augustine Caprara, Promoter of the Holy Faith, decided to write: That a Commission should be appointed, if it pleases the Most Holy [Pope].

On August 22, 1893.

Having related all of the above to His Most Holy Holiness, Pope Leo XIII, His Holiness, having approved the decree of the Sacred Congregation, with

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his own hand signed the Commission for the introduction of the cause of the Venerable Servant of God, Bartholomew Canales, on the 27th day of the same month and year.

C. CARD. ALOISI-MASELLA, Prefect of the Sacred Congregation.

L. * S.

For the Reverend Father John Vincent Ponzi, Substitute.

Secretary.

[*Latin ed. p. 314*]

314 FROM THE SACRED RITUALS OF TOLEDO, or GORDOBA. Decree concerning the Beatification and Canonization of the Venerable Servant of God, John of Avila, a secular priest and teacher. CONCERNING THE DOUBT: What, and concerning which miracles, does it consist in the case and for the effect of which we are speaking? The Venerable John of Avila, in the sixteenth century, was a distinguished example and support to the Church, and his wisdom and sanctity were praised as he flourished. In his conduct and writings, the signs of blessed James the Apostle shone forth, indicating wisdom that is from above; whose precious fruits please God and are approved by men. Truly wise, according to Christ, he proclaimed the unsearchable riches of Christ, first by preaching the divine word, and then by guiding others on the path of spiritual perfection, by counsel, by writings, by helping others, and also by his own example. He accomplished so much for the increase of divine glory and the progress of souls, that he acquired such a reputation for sanctity and wisdom, that eminent saints, such as John of God, Ignatius of Loyola, Francis Borgia, Peter of Alcantara, and Teresa of Jesus, desired to follow his counsel and to adhere to his teachings as a master. This same reputation, which he enjoyed until his death at the age of seventy-two in Montilla in the year 1569, later increased and was augmented by miracles, by which God was said to have confirmed the sanctity of his servant. Therefore, the cause for his Beatification was begun with the Sacred Congregation of Rites, and his heroic virtues were recognized by the Most Holy Pope Clement XIII, who, on the sixth of February in the year 1769, declared it. Five times, the miracles attributed to his intercession were examined: first by the Most Reverend Cardinal Aloysius Billio, in the preparatory assembly of the Cause, on the third of July in the year 1875; then three times in the preparatory congregations held in the halls of the Vatican, on the fifteenth of April in the year 1884, on the thirteenth of December in the year 1889, and on the fifteenth of September in the year 1891; and finally, on the first of December in the year 1892, before the Most Holy Lord, our Pope Leo XIII, in the same halls of the Vatican, where the Most Reverend Cardinals and Fathers Consultors of this Sacred Congregation were assembled in general meetings, and each gave his vote.

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The Most Holy [Pope], having heard all...

[*Latin ed. p. 315*]

According to the decree of the Sacred Congregation of Rites, number 315, it was deemed of such importance to pronounce judgment that it was postponed, with the instruction that the light of heavenly counsel be implored. Today, being the Sunday after the 25th Sunday after Pentecost, which is the feast of the Patronage of the Blessed Virgin Mary, while the bloody Sacrifice of the Mass was being offered, seated in this Vatican aula on the pontifical throne, he ordered that the Most Reverend Cardinals Caietan Aloisi-Masella, Prefect of the Sacred Congregation of Rites, and Aloysius Serafini, Bishop of Sabina, be summoned, together with the Reverend Father Augustine Caprara, Promoter of the Holy Office, and myself, the undersigned Secretary, and, in their presence, he promulgated the following decree: "It is established that there are three proposed miracles, namely, the first: the instantaneous and perfect healing of Catherine Rodríguez del Río from a phlegmonous tumor, and, due to its incision, from a serious lesion of the artery in the right lumbar-ileal region; the second and third: the preservation from death, and the instantaneous and perfect healing of Francis Martin del Burgo, and Joseph Gómez, from serious burns caused by gunpowder. And this decree is to be made public, and referred to the records of the Sacred Congregation of Rites, on the eve of November, in the year 1893. C. CARD. ALOISI-MASELLA, Prefect of the S. R. C. L. * S. VINCENTIUS NUSSI, Secretary. ROMA. Decree concerning the beatification and canonization of the Servant of God, Mary Aloysia Maurizzi, a cloistered nun, professed in the Venerable Monastery of the Manteillan Order of the Servants of the B. V. M. on the Janiculum Hill in the City. The following are described in the list, namely: (follows a list) Whereas the Eminent and Most Reverend Lord Cardinal Lucidus Maria Parocchi, Bishop of Albano, Cause Ponens, in the Ordinary Assemblies of the Sacred Congregation of Rites, signed the aforementioned day at the Vatican -

[*Latin ed. p. 316*]

316 From the Sacred Congregation of Rites, having considered the aforementioned documents, nothing was found that could impede the progress of this cause; the Eminent and Reverend Fathers, entrusted with the care of Sacred Rites, after hearing the Reverend Father Augustine, Promoter of the Faith, deemed it necessary to write: "Nothing stands in the way of proceeding further, provided that the rights of the Promoter of the Faith are observed, insofar as and when they are due." January 14, 1893. These matters were reported to His Holiness, Pope Leo XIII, by the Eminent and Reverend Cardinal Caietan Aloisi Masella, Prefect of the Sacred Congregation of Rites, and His Holiness approved and confirmed the decision of the Sacred Congregation itself on February 4, 1893. For the Eminent and

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Reverend Cardinal C. Aloisi-Masella, Prefect, A. Cardinal Serafini, L. & S. Vincent Nussi, Secretary. FIRMANA. Decree concerning the Beatification and Canonization of the Venerable Servant of God, Father Anthony Grassi, Priest, of the Congregation of the Oratory of Saint Philip Neri, in the city of Fermo. CONCERNING THE DOUBT: Whether, and concerning which miracles, there is sufficient evidence in the case of the event in question, and whether the Venerable Anthony Grassi, from the Congregation of the Oratory of Saint Philip Neri, has deservedly earned the merit to be esteemed by the most faithful friends of Christ and indefatigable ministers. He lived for eighty years, a life generously nourished by God with the bread of life and understanding, and refreshed with the water of saving wisdom, and he responded to the divine graces with ever greater diligence, seeking nothing more than to conform himself to the image of the Son of God. Indeed, his sanctity was so outstanding, especially in the practice of piety and religion, in his self-denial, and in his ardent zeal for the salvation of souls, that men of dignity and prudence considered him a true imitator of Saint Philip Neri, and sought his prayers and the counsel of heavenly wisdom from him. After his blessed death, which occurred in the year 1671, this testimony and reputation grew more and more each day.

[*Latin ed. p. 317*]

From the Sacred Rituals, number 317, there arose extraordinary and wondrous events, by which God Himself seemed to confirm [the cause]. Therefore, the cause for Beatification began to be advanced before the Sacred Congregation of Rituals, and after legal proceedings and proper expenses, the Most Reverend Clement XIV, Pope, decreed on the first of April in the year 1770 that the virtues of the Venerable Vincent were heroic. After two more miracles, which were said to have been obtained through his intercession, the matter was debated in three sessions. The first took place before the preparatory assembly for the cause, before the Most Reverend Cardinal Carlo Sacconi, on the fifteenth of September in the year 1774; the second in the Vatican buildings on the thirteenth of December in the year 1778; and the third, finally, before the Most Holy Lord Pope Leo XIII in the same Vatican buildings, on the eighteenth of July in the year 1892, where the Most Reverend Cardinals and Fathers Consultors of this Sacred Congregation were assembled in a general meeting, and each gave his vote. His Holiness, however, delayed giving his judgment for some time, and in the meantime, He recommended that the light of the Holy Spirit be sought. But today, on this day, which is the twenty-fifth Sunday after Pentecost and the feast of the Patronage of the Virgin Mary, His Holiness, after celebrating the Eucharistic sacrifice, and sitting on the pontifical throne in this Vatican aula, ordered the Most Reverend Cardinals Caietan Aloisi-Masella, Prefect of the Sacred Congregation of Rituals, and Angelo Bianchi, Bishop of Praeneste, for the cause, together with the Reverend

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Father Augustine Caprara, Promoter of the Holy Faith, and myself, the undersigned Secretary, and those present, to solemnly decree: That two miracles are established, namely, the first: the multiplication of wine in the orphanage for girls in Firmo; and the second: the instantaneous and perfect healing of a boy from a fracture of the patella in his right knee, with the immediate restoration of free articulation. And this decree is to be made public, and is to be recorded in the Acts of the Sacred Congregation of Rituals, on the eve of the Ides of November, in the year 1893.

C. CARD. ALOISI-MASELLA

S. R. C. L.

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S. VINCENTIUS NUSSI

Secretarius.

Praefectus.

[*Latin ed. p. 318*]

318 FROM THE SACRED CONGREGATION OF THE HOLY ROMAN AND UNIVERSAL INQUISITION, concerning the cult given to the Most Holy Face of Our Lord. Most Blessed Father, Father Caietanus Pizzighella, and the Congregation of Priests, regarding the chapel annexed to the church of the House of the Mother in Verona, which, with the consent of the Ordinary, has been adapted and destined for the cult of the Most Holy Face of Our Lord Jesus Christ, whose image, placed in a single altar, excites great veneration. Furthermore, in the same church, with the consent of the aforementioned Ordinary, a confraternity has been established, affiliated with the Archconfraternity of Turon, of the same Most Holy Face, to which almost four thousand souls have already given their names. Now, having learned through public ephemerides of the decrees established by this Holy Congregation of the Holy Office, concerning the cult to be given to the image of the Most Holy Face of Our Lord Jesus Christ, some confusion and disturbance have arisen, and not a few are astonished and declare that it is necessary to abandon this devotion, in order to give obedience to the authority of the Sacred Congregation of the Holy Office. For these reasons, the aforementioned Orator, seeking the tranquility of himself and of the confraternity attached to him, humbly requests: Under the direction and dependence of the Ordinary, can this chapel and confraternity, with the indulgences granted to it, continue to exist, so that something may be carried out publicly in the Oratory and in the pious exercises, which might suggest a direct and special cult, and which conforms to

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the Roman and traditional cult, for all? And God, etc. Having considered: The humble requests of the Orator are commended. Given in Verona, from the Episcopal Curia, on the 15th of January, 1893. A. L. Cardinal De CANOSSA, Bishop. On Feria IV, the 8th of March, 1893, presented in the Congregation of the Holy Roman and Universal Inquisition, the matter was considered by the Most Eminent and Reverend Cardinals in matters of faith and doctrine.

[*Latin ed. p. 319*]

From the Sacred Congregation, 319, concerning general matters, the General Inquisitors decreed: As has been explained, affirmatively. On the same day, the Most Eminent Cardinal, also Secretary of the Sacred Congregation, having been granted the powers by the Most Holy Lord, deigned to approve the resolution of the Most Eminent Fathers. L. Mancini, Notary of the Holy Roman Church and of the Universal Inquisition.

PARIS. The title "Of the Most Sacred Heart of Jesus of the Penitent" is prohibited. Thursday, July 15, 1893. The Most Eminent and Reverend Fathers, General Inquisitors, decreed: The Holy Roman Universal Inquisition, long ago, specifically on Thursday, January 13, 1875, generally consulted whether the custom of promoting titles should be encouraged, especially the title given to Our Lord Jesus Christ, namely, "The Penitent."

Therefore, when it came to the knowledge of this Congregation that Loigny still persists in what they call "Opus Sacri Cordis Iesu Poenitentis," and that its authors and supporters, although repeatedly condemned by the Supreme Pontiff, do not cease with sacrilegious audacity to fabricate and publish publicly visions and revelations of the Most Sacred Heart of Jesus of the Penitent, the Holy Roman Universal Inquisition, after due deliberation, absolutely prohibits and condemns the title: "Cor Iesu poenitens – Cor Iesu poenitens pro nobis. – Jesus poenitens – Jesus poenitens pro nobis."

Furthermore, it commands the Ordinary pastors of the places where Societies under these titles exist, to replace the condemned title with another that is approved by the Church, and not to allow them to continue unless all the rules have been strictly observed.

Finally, it recalls to everyone the decree of Thursday, January 13, 1875, which is transcribed here: Thursday, January 13, 1875. Our Most Holy Lord, Pope Pius, by Divine Providence, PP. X, in the usual audience, granted to... and commanded... that writers, who with their talents delve into... arguments and innovations, and who, under the guise of piety, seek to promote customary titles, even in periodicals, should cease from their purpose, and consider the danger that lies in leading the faithful into error; even concerning the dogmas of the Faith; and that, in addition to corrupting the purity of the Faith, they add a further offense to the Religion, to the Catholic doctrine,

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and to true piety.

[*Latin ed. p. 320*]

320 FROM THE DECREE CONCERNING THE REGULAR DISCIPLINE OF THE Order of Friars Minor Reformers. A QUESTION concerning a dispensation regarding simple vows... Most Blessed Father, Brother Diomedes of Pescocostantio, General Procurator of the Friars Minor Reformers, humbly prostrates himself before Your Holiness and requests a declaration regarding the following doubt: Brother N., a cleric of the Province of N., requested a dispensation from the simple vows he had taken on March 6, 1887, alleging that he was of infirm health and could not remain in the Order. On September 4, 1888, the Sacred Congregation for Regular Discipline graciously granted the request to the Reverend General Minister, for the execution of which, as the attached copy shows, he wrote on September 8, 1888, with these words: "We grant a dispensation, and we restore him to the life of the world, freeing him from all bonds and obligations of said vows..." Meanwhile, on September 4, Brother N. had written to the Provincial Minister: "I have been deceived by a demon, and I have falsely presented my cause; therefore, I wish to die in the Order, and I beg that a dispensation from the simple vows not be granted to me." Moved by mercy, the Provincial Minister, having heard his prayers, informed the General Minister of his repentance, and on April 6, 1890, after three years had elapsed, he admitted him to his solemn profession. Therefore, the question arises: Whether, despite Brother N.'s request of September 4, the Decree of September 4 regarding the simple vows, or its execution on September 8, 1888, has rendered him dispensed, so that his solemn profession is invalid and must be declared null? The Sacred Congregation for Regular Discipline, having maturely considered the doubt presented, responds: In neither part. Rome, March 15, 1892. I. Card. VERGA, Prefect. I. M. Granniello Barn., Secretary.

[*Latin ed. p. 321*]

321 FROM THE HOLY CONGREGATION OF THE COUNCIL OF NÎMES. DECREE OF DISPENSATION FOR MARRIAGE, September 9, 1893. Session 24, chapter 1, concerning reforms in marriage. Martha Révoil, thirty years of age, and Caietan Caries, a physician, were lawfully joined in marriage on April 28, 1891, in the parish church of Saint Felicity and Perpetua, in the city of Nîmes, in France. This marriage, however, met with an unhappy outcome. For Caietan, on the very day that the marriage began, began to vex his wife in obscene ways, with obscene words; and, if Martha is to be believed, he neither wished nor was able to consummate the marriage, as he suffered from a venereal disease. The woman lived with her husband for two months; but then, her father, who finally learned of the pitiable condition of his daughter and the detriment to her health,

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entrusted the care of bringing his daughter home to a most faithful friend. This man, under the pretext of the father's infirmity, brought Martha back, who no longer visited the marital home. Indeed, she went to a civil court; and, despite the letters of Caietan, who seems to have changed his appearance in the meantime, and who was trying to regain the favor of the lost woman; she pursued a civil judgment, alleging grave injuries and cruelties, and obtained a sentence of separation regarding property and residence on March 19, 1892. Furthermore, she subsequently petitioned the Most Holy [Father] to deign to grant her a dispensation concerning the marriage that was valid but not consummated. The Bishop of Nîmes, to whom the Holy Congregation had indicated, by order of the Supreme Pontiff, to proceed concerning both the lack of consummation of the marriage, as well as the causes for a dispensation, COMPENDIUM OF THE FACTS. Records, Volume XXVI, page COOVI, 21.

[*Latin ed. p. 322*]

322 N. E. M. A. U. S. E. M., as if to expedite the matter, on May 16, 1893, with a duly constituted tribunal, hastened to conduct the trial without delay. Subsequently, the woman was questioned, and also the seventh witness, who explicitly testified to the actress's religion, piety, and truthfulness. The man, however, although repeatedly summoned, refused to appear in court and to present witnesses on his side. After this, an examination of the woman's body was conducted by two physicians, with the Superior of the Sisters of St. Joseph present, and a midwife fulfilling her office, using a warm water bath; and all, without hesitation, gave their opinion regarding her virginity and the lack of consummation of the marriage. Therefore, the Bishop, transmitting the proceedings of the case to the Sacred Congregation of the Holy Office in a letter dated May 12 of this year, added: "If I may disclose my opinion regarding the merits of this case, I assert without doubt and fully believe that the marriage has not been consummated, and that sufficient reasons appear to grant a dispensation, and finally, that the woman is worthy of receiving the benevolence of Your Eminence." Synopsis of the Discussion. The Defender of the Marriage, after noting that the obstinacy of one spouse cannot prejudice the other, provided that sufficient and conclusive evidence of the lack of consummation of the marriage exists, as this Holy Congregation has repeatedly held: for example, in the case of Spoleta, December 20, 1873, July 8, and September 2, 1876; in the case of Praeneste, July 12 and September 12, 1884, and in many others: (1) indeed, when the man and woman disagree, it is considered more reliable to give credence to the woman who denies consummation, rather than to the man who affirms it, provided that the woman proves her virginity through a physical examination; and it affirms that all the arguments and supporting evidence are present that are required in such cases to establish moral certainty of the lack of consummation. And first,

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with regard to the woman's sworn testimony, it is noted that, in the case of Martham, DEFENSE OF THE WOMAN. (1) Compare, vol. XVII, 322, the case of Praeneste.

[*Latin ed. p. 323*]

NEMAUSENSIS. Three hundred and twenty-three individuals have declared before the ecclesiastical tribunal that the marriage had never been consummated, and that the woman remained in a state of virginity. The advocate recalls that all witnesses, without exception, affirmed that full faith should be given to the woman's confession. The father of the actress asserts that the daughter should be believed entirely, because she has always been incapable of deceit. The same was testified by, among others, the Bishop of Nemausensis, the actress's brother and sister, Madame Martin, the Reverend Father Clavé of the Society of Jesus, and Marthae's confessor, who testified before the judge: that he had seen the actress to be entirely worthy of trust, and that her declarations bore the marks of the greatest sincerity. Furthermore, the advocate continues, the witnesses do not merely testify to the woman's sincerity, but also to what they have seen and heard concerning the lack of consummation of the marriage. Thus, the actress's father learned of the lack of consummation of the marriage through an old servant, as well as through letters that Caietan had sent to him. Following these witnesses, others came forward who solemnly affirmed that the marriage had never been consummated. Thus, the advocate noted that Madame Martin, from the words of Caietan himself, understood the lack of consummation of the marriage. Finally, the Bishop of Nemausensis himself said: "If it is permissible for me to open my mind concerning the merits of this case, I assert without doubt and fully confirm that the lack of consummation of the marriage has been proven, and that sufficient reasons appear to warrant granting a dispensation." The advocate considers that the witnesses brought forward are of the utmost integrity, piety, faith, and sincerity. Indeed, what does the Bishop of Nemausensis think of them: "Now, I must say that the woman herself, and her entire family, stand out for their integrity and piety, their faith and sincerity. The Father, Commander of the Equestrian Orders of the Holy See, has earned much merit for religion in these parts, so that I would not hesitate to give full faith to their testimonies. The same I say of each of the witnesses presented in this case." Furthermore, the advocate noted, there is another strong...

[*Latin ed. p. 324*]

324 NEMAUSEN. The strongest argument regarding the incomplete consummation of the marriage can be gathered from presumptions. Indeed, he states that it is abundantly and undeniably clear that Caietan was suffering from a venereal disease at that time, and therefore, he either did not wish to or was unable to consummate the marriage. Furthermore, the

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advocate points out that it is established that Caietan avoided the woman; that he scarcely ever slept in the same bed with her; that he rejected her advances, and that he treated her with insults and contempt; which, the lady Martin and other witnesses testify. Therefore, he believes that there are very serious presumptions regarding the incomplete consummation of the marriage. However, the advocate continues, if any doubt still remained, it should be dispelled when considering the testimonies and reports of the expert physicians who examined the body of Marthe for judicial purposes. He observes that in the examination, all canonical prescriptions were scrupulously observed. The physicians, he recounts, unanimously declared Marthe to be intact before the judge. The advocate reminds us that the judicial pronouncements of both physicians provide full confirmation of what they separately stated in their written reports. Moreover, the advocate argues, it is no secret how much weight should be given to the arguments derived from the signs of virginity, and especially from the integrity of the hymen. Indeed, Zacchia, in book 4, questions medical, law, title 2, question 1, paragraph 1, states: "Many things are brought forward by which, when present, there can be no doubt about the integrity of virginity, and especially it seems to be an infallible and insurmountable sign to be derived from the hymen, for with its presence, it is sufficiently and abundantly known even to those witnesses who doubt the nature and truth of the hymen." Bartolinius, in *Institutiones Anatomicae*, chapter 31; Barzellotti, *Questiones de Medicinae Legibus*, volume 1, book 1, chapter 5, and others, concur widely. Furthermore, the advocate states, citing the Abbot in chapter *Proposuisti* 4, on proof, number 3: "Where the matter to be proven is such that the judge is not instructed, nor can be instructed, either because he is inexperienced in this matter, or because decency does not permit, recourse must be had..."

[*Latin ed. p. 325*]

NÎMES. "It is the judgment of experts in that matter, and according to their testimony, the judge pronounces sentence." Therefore, the advocate concludes, the impediment to marriage is so clearly established that nothing further is needed to prove the matter. Then, anticipating the difficulties that might be raised in opposition, the advocate proceeds to address the exception to the medical examination, in which midwives were not employed, stating that the diocesan Bishop wrote the following: "Indeed, with regard to the examination of experts, it is known to Your Eminences that it would be impossible for us to follow the Instruction of the year 1840 in every respect: the doctors were unwilling to give their judgment based on the testimony of the midwives; moreover, it would easily give rise to scandal to have the examination carried out in a private home, and in the presence of any woman. Therefore, it seemed better to follow the practice used in the Court of Paris and in other places in this region: the physical examina-

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tion was entrusted to two expert physicians, pious and Catholic, and the place designated was a hospital for sick women, where women religious serve, one of whom would perform the duties of a midwife. Everything else was strictly observed. I am confident that the Holy Congregation will find nothing to reproach in this matter." Furthermore, the advocate notes that, with regard to the substance of the examination, which must be kept in view, greater care and prudence were taken in employing learned and virtuous men who would ascertain virginity through sight and observation, and not through the testimony of midwives. Therefore, together with the Bishop of Nîmes, he is confident that Your Eminences will find nothing to reproach in this matter, especially since such a practice has already been in use, not only in the Gallic provinces, but also in other regions; nor has it been disapproved by the Holy Congregation, as can be seen in the cases of Venice, July 28, 1860, in Padua, September 23, 1865, and most recently in Versailles, in the month of July 1891, and in many others (1).

(1) *Recueil Parisien*. Vol. XXII, 366.

[*Latin ed. p. 326*]

326 NEMAUSEN: Furthermore, the advocate, in order to demonstrate that the absence of testimony from the husband's side could in no way harm Martha, observes that Caietanus, duly summoned, had signified to the Judge in writing that "he did not wish to appear, and that he had no interest in the case." Since, therefore, it is possible for witnesses to be called from the husband's side even through a woman, the absence of such witnesses should not prejudice her, as has been repeatedly held by the Holy Congregation of the Council and most recently in Warsaw on May 11, 1887, and in Paris on August 3, 1889.

The advocate believes that it is not necessary to say that Caietanus's relatives were to be summoned by law. Indeed, it is true that if Caietanus's mother, who knew all things best, and to whom it should have been most important to testify for the sake of her son's reputation, refused to appear, and indeed gave no response whatsoever, it was quite useless to summon other relatives, who, far from it, would have refused, the mother refusing, Caietanus refusing.

Furthermore, the advocate goes on to assert that, in the present case, the examination of witnesses from the husband's side could in no way have altered the substance of the matter. For they could not have added anything that Caietanus had not already confessed in his letters. If they had confirmed the lack of consummation of the marriage, the quarrels, and the contempt, Caietanus himself confirms these things. If they had denied the lack of consummation, the injuries, the quarrels, and the insults, their testimony would not have been worthy of belief, contrary to Caietanus's confession, who in his letters to Martha and her father could not have more clearly confessed the lack of consummation of the marriage

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and the cruelties inflicted upon the woman. Indeed, the advocate asserts that it is clear from the records that these witnesses would fully confirm that confession. One of the witnesses, who could have been summoned from the husband's side, namely, the dynastes d'Anglas, who was involved in matrimonial affairs, and who was, by Caietanus, used as a witness at the celebration of the marriage, speaks in his letters to the actress's father about the lack of consummation of this marriage. Therefore, he concludes, even if the testimony from the husband's side is lacking, there is still in the process what abundantly compensates for this lack, so that the fullest moral certainty of the lack of consummation of the marriage arises.

[*Latin ed. p. 327*]

NEMAUSEN. 327 Proceeding then to enumerate the reasons for the dispensation, the advocate first adduces the injuries and cruelties suffered by the man. Secondly, he places the incurable and contagious illness, from which Caietanus suffers, as a reason for the dispensation. For, he maintains, such a grievous and shameful disease should not only be considered among the serious injuries, but is itself the most important reason for granting a dispensation. Indeed, the union with a woman, and all the more so with a woman afflicted with such a disease, would be pernicious, and even more so for the offspring. Thirdly, an insuperable aversion between the spouses is cited as a reason for the dispensation, a matter which has been discussed at length in "Ursaya Discept. 21, nos. 60, 61, 62, vol. 3, part 2, and in disputation 7, nos. 76, 77, vol. 3, part 1; and Cerrad. *Iu praxi dispensat*, book 8, chapter 3, no. 33, and which, he asserts, has been abundantly proven through the testimonies of witnesses. Fourthly, a reason for the dispensation is presented, according to the advocate, based on the separation already pronounced by the civil tribunal. Finally, the fifth reason is the spiritual advantage to be gained by the petitioner through the dispensation. For, he states, this reason has always been frequently invoked to obtain a dispensation, as testified by Perez, *De i aal ri m*, disputation 20, section 7, no. 11, and as taught extensively by the Sacred Rota and by the numerous resolutions of this Holy Congregation.

OBSERVATIONS.

THE DEFENDER OF THE MARRIAGE BOND. The defender of the sacrament vigorously argues that it is not clear, either concerning the lack of consummation or regarding just reasons for granting a dispensation. Firstly, he believes that the examination of the woman's body, performed by two physicians, should be considered invalid, for two reasons: because the examining physicians, who declare that the woman is a virgin, may easily be deceived; and because the testimony of the examination was given in such a way that they could deceive without being punished. Indeed, he endeavors to prove, with the authority of Zacchiae, *Quaest. medie, leg.*, book 3, title 2, question 7, nos. 3 and following, and book

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4, title 2, question 3, no. 13, that, apart from the genitals, other parts of the woman's body must also be carefully examined. For, as Sánchez says in *De matrim.*, book 7, disputation 108, no. 8, "the eyes and hands (of the examiners) are deceived; and this happens especially because women employ many deceptions."

[*Latin ed. p. 328*]

328. "THOSE WHO USE DECEIT," so that virgins may appear to be with child. It is reported that Zacharias enumerates these deceptions in Quaestiones Medicae, book 3, title 2, question 7, number 1. Furthermore, it must be feared that physicians, who do not consider other parts of the body, besides the female organs, can be deceived, not only because of the aforementioned danger of deceptions, but also for other entirely natural reasons; for a virgin, as long as her hymen remains intact, can not only consummate a marriage, but also conceive a child; and to the point, I refer to the words often spoken by Zacharias, who in book 4, title 2, question number 28 and following, says: "This can happen in two ways. In one way, if that membrane [the hymen] is so hard that it cannot be torn by intercourse; then, if a man pours semen into the neck of the uterus, and the uterus attracts it through the opening that is always found in that membrane, and which is not at all disputed, the woman can conceive. In the second way, if the man has a very short member, and that membrane is located higher and further back; or if the woman herself has a long neck of the uterus; then the same thing can happen as in the previous case. I will add two other ways; one, if the hymen's opening is somewhat larger, even though a slender member is present, for without tearing the hymen, a woman can become pregnant. The fourth way is the most noteworthy of all, and is the one that is most often observed, and is particularly noted by Pineau; when virgins are joined to a man one or two days, or even on the third or fourth day after the cleansing of the menstrual flow, because then they not only easily and without pain allow the man to enter, but what you may find strange, the membranes that constitute the hymen are not torn, but are merely relaxed by the previous moisture of the menstrual flow, so that they easily yield to the penis without being torn; and then nothing prevents the woman from conceiving." These words are echoed by modern leaders of the healing arts, among whom are Doctor Pineau and the distinguished physician Peter Budin.

[*Latin ed. p. 329*]

NÎMES. 329 In the present case, the custodians of the Sacrament, the doctors Albert Puech and Leo Raynaud, while examining the body of the woman in Marthe, did nothing to prevent the obvious dangers of deception; but with remarkable levity of mind, they proclaimed the woman a virgin, judging her virginity solely by the state of the hymen, without considering

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other parts of the body, such as the color, or other such things. Furthermore, the speaker continues, it is to be feared not only that the doctors may be deceived, but also that they may deceive others. For this reason, certain precautions have been taken, and if these are observed, experts, even if they wished, could not deceive. In fact, according to the Instruction issued by the Sacred Congregation on August 22, 1840, § Procedendum et seq., it is prescribed that at least three midwives should examine the body of a woman; and that each midwife should submit a written report of the examination and undergo a judicial examination before being allowed to know the testimony of the other midwives; it is also prescribed that at least two doctors should first instruct the midwives who are to examine the body, then examine the report submitted by the midwives, and judge it. Therefore, at least five witnesses must be used: namely, three midwives and two doctors; and to prevent any dangers of fraud or collusion, it is stipulated that each witness must give their testimony before being allowed to inquire about or suspect anything concerning the testimony of others. But in the present case, the doctors Albert Puech and Leo Raynaud, without any other witnesses or arbiters, and with the midwives removed, completed the examination; and they completed it in such a way that each, while giving testimony regarding virginity, knew or would know the testimony given or to be given by the other; so that in reality, not five, indeed not even two, but only one witness was present in a certain sense. Furthermore, according to the defense, the judge of Nîmes ordered the doctors to jointly deliberate and complete the examination, and this was done because the judge of Nîmes wished to follow the example of the judge of Paris, who in letters addressed to the Congregation of the Sacred Council dated December 21, 1891, testified: "Indeed, both experts enter together into the room..."

[*Latin ed. p. 330*]

330 NEMAUSEN. "Un examen doit être fait, non seulement du corps, mais ensuite le corps doit être examiné séparément, ce qui semble suffisant, compte tenu du contexte de l'instruction." L'orateur, cité dans *Instruct.*, affirme que cela est tout à fait le contraire. Ses paroles sont : "Il faudra procéder à un examen du corps séparément par chacun." Il explique et insiste fortement sur ce point. Le défenseur ne considère pas que la confession du couple ait une importance particulière dans le cas présent. En effet, il rejette la confession faite par Marthe concernant l'inconsommation du mariage, car, selon Sánchez, *De Matrim.*, livre 2, discussion 45, n. 33 : "Une confession, lorsqu'elle est en faveur du confesseur, ne prouve rien." De plus, il affirme que la confession de Caietan n'a aucune valeur : en effet, dans les lettres que Caietan a adressées au père de Marthe, la confession de l'inconsommation du mariage, que Caietan aurait faite, ne s'y trouve absolument pas. De plus, le témoin Jean Clavé, parmi tous les témoins, est loin d'être digne de confiance, étant donné qu'il est marqué du caractère

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sacerdotal et qu'il est membre de la célèbre Compagnie de Jésus. Interrogé par le juge : "Savez-vous, et comment avez-vous su que M. Caries aurait lui-même avoué ne pas avoir consommé le mariage ? A-t-il indiqué la cause, et à quelles personnes a-t-il fait ses aveux ?", il a répondu, sous serment : "Rien." Alors que Marthe avait affirmé : "M. Caries a fait des confidences très explicites au R. P. Clavé." Ainsi, même si le mariage n'avait pas été consommé, Jean Clavé l'aurait su avec certitude, et Caietan ne l'aurait pas caché à Jean, car il le considérait comme un arbitre de la paix conjugale, que Jean a elle-même rétablie. Cependant, si Jean avait appris quelque chose de tel de Caietan, il l'aurait professé en justice, sans détour, car il se montre le plus dévoué à Marthe. Il ne pense pas qu'on puisse objecter que Jean est muet parce que Marthe a fait ses confessions sacramentales. Car ici, il s'agit de choses qui ne sont pas faites dans la confession sacramentelle, mais dans le rétablissement de la concorde conjugale. Et Jean a l'habitude de signaler au juge, sans ambiguïté, tout ce qu'il a appris en dehors du sacrement de la Pénitence, en ajoutant la clause : "C'est tout ce que la discrétion professionnelle lui permet de dire."

[*Latin ed. p. 331*]

NEMAUSEN. 331 Furthermore, he rejects the testimony of Felix Martin, who asserted that there was a complete lack of consummation of the marriage, even though the spouses had slept in the same bed; and this, because he does not offer any reason for his assertion, which, according to Mansella De Impedimentis, etc., chapter 8, article 3, number 18, is absolutely necessary, especially in matrimonial cases, so that if a witness "does not wish to answer or is unable to answer, or if he denies, or alleges a false or irrelevant reason (for his assertion), his testimony is completely rejected, and he provides no proof whatsoever"; and furthermore, because that testimony is suspect. For he not only refuses to answer the judge's questions as to how he learned that Caietan had confessed that the marriage had not been consummated, and to whom he made this confession. But, on the contrary, he answers questions that were not put to him. Indeed, his response begins: "These spouses only slept in the same bed at the beginning." In addition to this, Michael Martin is an "former deputy of the court of peace"; and therefore, he is very likely to employ the cunning tactics commonly used in examinations. However, it is falsely claimed that Caietan confessed to the lack of consummation of the marriage based on certain words extracted from his letters to Martha's father: "If I have not cohabited with my wife, the reason is due to my prudence, and because I have not been able to remove suspicions." Indeed, Martha and her father not only do not trust Caietan's confessions, but they greatly fear them. Therefore, Caietan, with humility, prayer, and careful observation, urged Martha's father to allow him to speak with him. Therefore, the present investigation was not conducted by the Ordinary of Montis Pessulani, as it should have been; but by the

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Ordinary of Neumasen. In truth, the tutor notes that, according to the most common principles of law, the investigation should have been conducted by the Ordinary of Montis Pessulani, where Caietan resides, according to the well-known legal axioms: "The plaintiff follows the forum of the cause; - The defendant must be summoned before his own judge; - Obedience is not rendered to a judge who is not his own; - and also according to the Instruction of the Congregation for the Propagation of the Faith of the year 1883, which states: 'In matrimonial cases, the spouses are subject to the Bishop in whose diocese the husband resides.'"

[*Latin ed. p. 332*]

332 NEMAUSENSIS. "domicile habet." Furthermore, the defender, relying on the authority of Monsignor Mansella (De impôt, manual direct, part 1, chapter 5, article 1), states: "When a wife shares the domicile and forum of her husband, both spouses are subject to the Bishop in whose diocese the husband has his domicile. However, if the conjugal life has been broken by separation from bed and board, then the competent judge is that Bishop in whose diocese the party against whom the action is brought has his domicile." Therefore, he concludes, the investigation should be conducted in Monte Pessulano, not in Nemausens. Moreover, the defender strongly objects that Martha dared to claim that she was entitled to the benefit of conducting the investigation in the city of Nemausens, as granted by the Most Holy Prince, because she claimed to be required to reside in the city of Nemausens according to the judgment of the tribunal; and: "The circumstances of the case are more favorable to the same petitioner"; while Martha herself presents the following argument: "The marriage did not have a happy outcome, because Caietanus was afflicted with a venereal disease, and did not consummate the marriage, nor was he able to consummate it, and moreover, he greatly vexed the petitioner." These events, having occurred in Monte Pessulano, are known only there, and therefore, he strongly laments that no investigative acts were carried out in Monte Pessulano, that no witnesses from the diocese of Monte Pessulano were brought to be examined; that Caietanus himself was not examined, nor were witnesses summoned from the husband's side, although the Instruction issued by the Sacred Congregation of the Council on August 22, 1840, strictly prescribes the examination of witnesses from both sides. However, the defender of the sacrament continues, it is wrongly objected: "Since it is possible to obtain witnesses from the husband's side through the woman, the absence of such witnesses should not prejudice her." For it can happen that witnesses were not obtained from the husband's side through the woman; and it does not necessarily follow from this that the absence of such witnesses can prejudice the present cause. Indeed, the testimony of witnesses from both sides is required in matrimonial cases, in addition to

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the proofs required in other matters.

[*Latin ed. p. 333*]

NEMAUSEN. 333 is, as Sánchez De Matrim, lib. 7, disput. 108, n. 7, observes: "So that, with greater diligence applied, the dissolution of the marriage may be made certain. This matter is of the greatest importance." This is all the more urgent in this case, because, above all, the sole argument upon which the opposing action is based, namely, the examination performed on the woman's body, has been so thoroughly carried out that physicians, being knowledgeable, could easily be deceived and deceive. Moreover, the defender goes further and does not hesitate to assert that it is utterly false that no witnesses were called from the side of the husband. Indeed, Martha's father rudely and cruelly rejected Caietan, who desired to speak with him face to face, and to relate the facts, as they stand, clearly to him. Martha, however, through deceitful pleas, obtained that an investigation be conducted in Nemausen, while Caietan and his witnesses were in Monte Pessulano. Furthermore, Martha's father testified in court that he had learned from a certain servant that the marriage had not been consummated, and that it could not be consummated by certain physicians, due to the husband's syphilis, without grave danger to the woman, and he is distressed that the aforementioned witnesses are so well instructed that they can appear before the court. Regarding the servant, he says: "trop âgée, et trop affaiblie aujourd'hui pour pouvoir être interrogée" (too old, and too weak today to be questioned). As for the physicians, he does not indicate their domicile, nor their names. The judge, however, chosen by Martha, conceded to the wishes of Martha's father, did not summon the servant for examination, nor was he concerned about the physicians, although it is clear, according to the speaker, that the servant was not so "old" and "weak" that she could not be examined either in the courtroom or at home; although the Instruction of the Sacred Congregation of the Council, of August 22, 1840, most wisely mandates that, in cases of this kind, the physicians who were called upon by the husband for treatment should be summoned for examination. It is not worth mentioning that Martha's father, if he had feared the testimony of the servant or the physicians, would have kept them silent. For their silence could not have been of any benefit, since it is customary for judges, in such cases, to inquire of the testimony of servants and physicians ex officio.

[*Latin ed. p. 334*]

334. NEMAUSEN. Finally, the defender observes that, as well as the witnesses, the letters, which could shed great light on the matter, are not at all included in the judicial records. Indeed, Paul Révoil, Marthe's brother, if one were to hear him, "learned from Madame Morel, their sister, that the marriage had not been consummated." Furthermore, Blanca Martin stated:

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"Letters written by Marthe to her sister and to Madame Martin confirmed her sad situation and provided details, both about her husband's illness, and about the abandonment in which he left her." However, neither the letters of Paul Révoil, nor those of Joanna Morel, Marthe's sister, nor those of Blanca Martin, are included in the records. Given these circumstances, the speaker believes that it is best that Marthe's proclaimed virginity should vanish into thin air, if a trial is conducted according to the course of law, using, of course, the precautions established by the world to prevent fraud and collusion. He also believes that, equally, that the syphilitic disease and other things unjustly attributed to Caietan in his absence might be loved, if the Ordinary of the Diocese of Montpesulans were to be entrusted with the task of bringing Caietan for examination, and to thoroughly question witnesses, and others whom he finds to be informed about the matter, and he considers it pointless to argue about the reasons for the dispensation. With these, and other points noted, the purpose was to determine whether it is necessary to consult with the Most Holy Congregation regarding a dispensation for a marriage that is valid but not consummated, in this case. RESOLUTION. After discussion by the Holy Congregation on September 9, 1893, it was decided to respond: Affirmative.

[*Latin ed. p. 335*]

335 BIEL. MARRIAGES. September 9, 1893. Session 24, Chapter 1, On Reforms. SUMMARY OF FACTS. In the parish church of Arro Salussola, in the diocese of Biella, on February 7, 1889, a marriage was celebrated, according to the Tridentine form, between Francis Spina, aged 23, and Margaret Figino, aged 20, without any prior civil act. Before the celebration of the marriage, rumors had spread that Margaret was pregnant by another man, and Francis had learned of this. The situation had reached the point where the betrothal was almost completely broken off. However, after the woman, openly declaring her innocence, pleaded with the betrothed not to believe the words of others but to trust her, the marriage contract was, as already stated, brought to completion. On the very first night of their marriage, the spouses began to live together as husband and wife. But later, Francis, believing that the rumors corresponded to the truth, abandoned his wife after approximately twenty days of cohabitation. Then Margaret returned to her mother's home, and from there she went to Biella, where, as she herself confesses, she gave birth to a child in a public inn during the month of June of the same year. On November 18, 1890, Francis, claiming that he had only given his word of betrothal to Margaret conditionally, requested the Bishop to declare his marriage null and void, alleging that his consent, given under the condition that Margaret was not then pregnant, was invalid since that condition had not been fulfilled. To ascertain this, the Prelate instituted a legal inquiry, before which both the spouses and their witnesses testified under oath. After the proceedings were concluded, the

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findings were published on January 7, 1891, and the parties were notified.

[*Latin ed. p. 336*]

336 BIELlA. in order to establish their rights. Since they were unable or unwilling to defend themselves, the proceedings were transmitted to the Sacred Congregation of Councils. In this case, the following question is to be resolved: whether the marriage, which is alleged to have been conditionally contracted between Francis Spina and Margaret Figino, both from the town of Arro Salussola in the Diocese of Biella, is null. Francis Spina, having been captivated by love for Margaret Figino, took her as his wife, and therefore, happy discussions had previously taken place between the parents. But when it became known in the town that Margaret, through the actions of another, was pregnant, Francis withdrew from the betrothal. However, Margaret, deeply grieved by the rejection, protested her innocence with tears and oaths, claiming that the calumny had been unjustly leveled against her. Francis, trusting her words and tears, duly celebrated the marriage with her in the Church on February 7, 1879. However, on the first night of their marriage, while attending to the marital act, he discovered that his bride was pregnant, which he subsequently confirmed. In order to obtain certainty, after consulting with the parents, he proposed to the bride that she submit to an examination by a doctor or midwife; but she stubbornly refused. Consequently, Francis, after approximately fifteen days of cohabitation, rejected his bride and sent her back to her mother. Margaret, however, went to Biella, and there, at the end of June of the same year, 1889, she gave birth to a child, as she confessed. Francis remained silent until the end of the year 1890; then he approached the Bishop, requesting that the marriage be declared invalid, claiming that he had entered into the marriage with Margaret on the condition that she should not be pregnant, and that, if this condition were not fulfilled, he would be free from the bond of faith. The Bishop accepted the complaint, and the proceedings were completed in the same court, the records of which were transmitted to the Votum Theologi.

[*Latin ed. p. 337*]

BIELIA. 337 This Holy Tribunal. I have no doubt that the Tribunal of Biella has completed all that is prescribed in such judgments. Laws, both civil and ecclesiastical, admit that conditions can be added to contracts in which two, or more, parties agree, and that these contracts, if purified, become absolute, while, if not purified, fall into nullity. Therefore, when promises are made with conditions, and the condition by one of the parties is not fulfilled, the other party is released from all obligation. Since marriage is a true contract, conditions can be added to it, as in other contracts, but with this distinction, that the condition must be concerning the past or the present, never concerning the future; for since its nature requires

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perpetual firmness, such a consent, to which the Sacrament is attached, could not depend on a condition, and thus would undermine its firmness. Having stated these things, let us proceed to the solution of the doubt proposed. The judgment regarding the validity or nullity of this marriage will be derived from the condition, namely, whether the condition was truly added in the present, and whether the condition was fulfilled. "Marriage stands, as long as the condition stands, and when the condition does not stand, it does not stand." These are the words of the Most Holy Doctor, Thomas Aquinas. Therefore, in our case, in order that the truth may be revealed, we must be certain whether Francis Spina truly bound himself with his consent to take Margaret as his wife, under the condition that he would never take her if the woman were pregnant. However, Francis' intention in this matter is gathered from the events preceding the marriage: for when the rumor spread in the town about Margaret's pregnancy, he himself abruptly broke off the agreement, refusing to take the bride, who had previously been corrupted; and this retraction sufficiently teaches us that he always intended to take a virgin, and that he thought of nothing else. And although the bride herself, with tears and oaths, tried to refute the false rumor about herself, and Francis, being deceived, took her in good faith, nevertheless, he had previously expressed the condition: but the condition, which precedes the marriage, prevents absolute consent. But let us hear the plaintiff in his testimony: "I took Margaret as my wife under the condition of her integrity;" as is stated in the records, Volume XXVI, page 336, line 22.

[*Latin ed. p. 338*]

338. BUGELLEN. I demonstrated this to him through his mother, for I had decided that she should not proceed if she were pregnant. From these words, and others he uttered, it is not obscure that Francis had consented to the marriage conditionally. Although it might be claimed that this is established solely from his testimony, there are many witnesses who, compelled legally, assert that Francis, before the marriage, openly declared to the bride, as well as to her parents and friends, that he would marry her conditionally, and in no other way. However, the marriage was subsequently celebrated properly: indeed, but deceived and misled by the bride's tears and oath, he gave his consent, a consent which, in truth, was based on a false and deceitful assumption regarding the bride's innocence. As all theologians teach, consent in marriage must be free from all deception and fraud, and therefore, consent arising from error and fraud does not create a valid contract, even if the marriage has been consummated. Therefore, it is not irrelevant that Francis had intercourse with the bride once, and then again: for true consent was always lacking, since it depended on the truth of the condition previously stated, and he learned through experience that he had been the victim of deception. Nevertheless, after the first experience, in

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which he discovered that Margaret was pregnant (having been made aware for the first time that she was pregnant), he should have abstained from the use of marriage: for although conditions that are of the past or of the present do not invalidate consent and marriage, they do suspend the use of marriage, until it is determined that the condition exists or has existed. In this respect, he is not to be praised, but having become certain through experience that the condition he had imposed and expressed did not exist, he... Nevertheless, after the first experience, in which he discovered that Margaret was pregnant, he should have abstained from the use of marriage: for although conditions that are of the past or of the present do not invalidate consent and marriage, they do suspend the use of marriage, until it is determined that the condition exists or has existed. In this respect, he is not to be praised, but having become certain through experience that the condition he had imposed and expressed did not exist, he... Nevertheless, after the first experience, in which he discovered that Margaret was pregnant, he should have abstained from the use of marriage: for although conditions that are of the past or of the present do not invalidate consent and marriage, they do suspend the use of marriage, until it is determined that the condition exists or has existed. In this respect, he is not to be praised, but having become certain through experience that the condition he had imposed and expressed did not exist, he... Nevertheless, after the first experience, in which he discovered that Margaret was pregnant, he should have abstained from the use of marriage: for although conditions that are of the past or of the present do not invalidate consent and marriage, they do suspend the use of marriage, until it is determined that the condition exists or has existed. In this respect, he is not to be praised, but having become certain through experience that the condition he had imposed and expressed did not exist, he... Nevertheless, after the first experience, in which he discovered that Margaret was pregnant, he should have abstained from the use of marriage: for although conditions that are of the past or of the present do not invalidate consent and marriage, they do suspend the use of marriage, until it is determined that the condition exists or has existed. In this respect, he is not to be praised, but having become certain through experience that the condition he had imposed and expressed did not exist, he... Nevertheless, after the first experience, in which he discovered that Margaret was pregnant, he should have abstained from the use of marriage: for although conditions that are of the past or of the present do not invalidate consent and marriage, they do suspend the use of marriage, until it is determined that the condition exists or has existed. In this respect, he is not to be praised, but having become certain through experience that the condition he had imposed and expressed did not exist, he... Nevertheless, after the first experience, in which he discovered that Margaret was pregnant, he should have abstained from the use of marriage: for although conditions that are of the past or of the present do not invalidate

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[*Latin ed. p. 339*]

BUGELLEN. 339 (and) on one hand, having completely lacked the condition: therefore, it must be said that the marriage between Francis Spina and Margaret Figino suffers from nullity, and it must be concluded in accordance with the opinion of the Angelic Doctor cited above: "Marriage stands as long as the condition stands, and if the condition does not stand, then the marriage does not stand." Supp. Q. 47. OPINION OF A CANONIST. The Prelate in law, the Consultor said, that consent in a matrimonial contract can be attached to a condition that is honest and possible, either concerning the past or the present, so that the marriage is either immediately valid or null, depending on whether the condition, which is still uncertain among the parties, actually exists or not. Pignatelli, t. IX, Cons. 136, n. 5; Schmalzgrueber, p. IV, t. 5, n. 22; Sánchez, I, 5, disp. 6, n. 1. However, it is clear that the word "condition" is used very broadly, and indeed improperly, because, according to I, Institutio 1 ff. De cond. ins tit., "there is no condition that is applied to the past or to the present," but rather, it is absolutely required that the event be one that will happen in the future. Given that in the case at hand, Francis did not consent to marry Margaret if she were pregnant, and that in fact, she was pregnant at that time, there is no marriage, due to the lack of consent. Therefore, following the doctrine of Piton and others, it should be understood that the condition must be brought into the marriage agreement itself, before the priest and witnesses; and here, I believe that two things must be proven by the plaintiff, namely: 1. that the condition was previously established by him, and not subsequently revoked; and 2. that it was not, in any way, waived. Indeed, with regard to the first point, Francis states that he firmly resolved to take her as his wife only if she were free from the imputed crime; otherwise, he would not enter into marriage; thus, the consent of the man is subordinated to the innocence of the woman; but this, certainly, is not sufficient to prove the nullity of the marriage. Whether he truly intended to consent to the marriage purely and simply, or conditionally, only God knows, who sees the kidneys and the heart. But in the external forum, it is required that there be proof of the express statement of the condition: for a condition, retained in the mind, has no effect in contracts, according to I, Cum in plures 60, §. locator horrei, ff. Locati.

[*Latin ed. p. 340*]

340. BÜGELLEN. Moreover, Schmalzgrueber, in *Par. II tit. V § %*,

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teaches that "in order for conditions to be considered valid, they must be expressly stated." Furthermore, Francis testified: "I made Margaret certain of this condition through my mother... when she swore an oath to prove her innocence, I, through my mother, warned her that I would not marry her if she were already pregnant; and when questioned more fully by the judge, she replied: 'I made this same sentiment known to my mother and others; and furthermore: 'I certainly made this opinion known to Margaret through my mother.'" However, when Margaret was questioned about these matters, she stated: "I know nothing about the matter, or the condition about which you are asking me; her mother told me something about me; if that were true, they would not want to complete the marriage." And later, she stated that she knew nothing else except that her mother had told her something. And, under the judge's insistence, in the presence of those present, she declared that she learned this through her mother a few days after the declaration of Francis's innocence, and before the marriage ceremony in the groom's house, where no one was present. And finally, she added: "I do not know what the groom was thinking, but I learned from others that he was saying: 'If she is truly guilty, I will consult.'" From all of this, it appears that Francis's mother did not express the condition that was essential for the marriage from her son, but rather only manifested her and the family's opposition and repugnance to Margaret, who, therefore, was justified in believing that she was completely unaware of the groom's intentions. Therefore, the testimony of the woman, as well as the man's confession, do not confirm, but rather, in many respects, contradict each other. Now, let us proceed to the seventh witness, and first to Victoria Spina, the actor's mother. Furthermore, although she claims that Francis conditionally consented to the marriage, she is completely silent about the condition that was expressly stated by Margaret on behalf of her son, and she only states: "My son was disturbed by the bride's words, but he said nothing in front of Margaret; I, however, told Margaret, 'Think about what you are doing, because even if you begin the marriage, the son might abandon you.'" When Margaret left, the son added: "Certainly, Margaret is innocent, otherwise she would not have sworn it!" However, this does not lead to a conclusion.

[*Latin ed. p. 341*]

BUGELLEN- 341: These arguments do not prevail, and the demand made to the mother by Francis, expressing the same condition of the betrothed, completely exclude [the validity of the marriage]. The other witnesses, or those led by him, either claim to know nothing, or express their opinion in such a way: "I believe that Francis, when entering into marriage, did so only hypothetically and under the condition that the woman was not already pregnant." I will not hold those who use these words, so to speak, as stereotypes, to be in suspicion, even though all

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are connected to Francis by blood or affinity, and although the woman declared: "I learned that on the seventeenth day after the celebration of the marriage, Francis consulted a lawyer to have me returned to my home." However, I must observe that these witnesses speak of an opinion, and that they derive it from the fact that the bridegroom had said to someone: "I do not want to marry her, or I want to abandon her," so that she would not be innocent. Indeed, it must be conceded that Francis would not have married Margaret if he believed her to be pregnant. Nor did he express threats or a culpable intention of abandoning the wife; but this differs greatly from a consent given under a condition in the marriage itself. For it is one thing to manifest a certain intention in general, and another to add it as a condition, so that one intends to celebrate the marriage under that condition and no other. After these things, only Francis's testimony remains to demonstrate the consent given conditionally in this case, which, being the only one and given in favor of the confessor, would seem to be one that should be rejected as having no weight. This becomes even more evident if one recalls that the Sacred Congregation of the Council has always demanded rigorous proofs whenever the validity of marriage is questioned because of a condition added and not purified, as can be seen in Lisbon, in the year 1724, in Barcelona, in the year 1734, and especially in Navarre, on February 24, 1720, in which, among other things, the following words are found: "Therefore, the only difficulty lies in the proofs, since the condition imposed in the marriage contract regarding Anne's virginity and abstinence from intercourse, which is said to have been stated by these spouses, is based only on their words, which does not seem sufficient, according to De-"

[*Latin ed. p. 342*]

342 BUGELLEN. The decree of Celestine III in Cap. *Super eo*, title *Be eo qui cognovit etc.*, should be consulted. From this, it could be argued that if the testimony of both spouses was not considered sufficient proof of the added condition in the aforementioned Novarese case, which therefore ruled in favor of the validity of the marriage, then, *a fortiori*, it should be concluded that the mere confession of Francis, with his wife contradicting him, is by no means sufficient to prove that the marriage was conditioned. However, in order for the question to be fully explored, the circumstances that preceded, accompanied, or followed the marriage between Francis and Margaret must be considered. And first, it must be observed that, although some presumption of the added condition might arise from the fact that Francis, having heard rumors of his fiancée's pregnancy, showed a desire to withdraw from the betrothal, this presumption is by no means sufficient to undermine the marital bond, and moreover, it must yield to the truth. Indeed, it seemed that, based on the testimony of the parties and the witnesses, Francis, after Margaret's tears and entreaties, completely dispelled

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any suspicion of her guilt, and therefore entered into marriage with her purely and simply. This is what Francis himself affirmed, and he gave an order to Peter Pastorello to ask for her hand again, so that he would not seem to be doing an injustice to Margaret; but he did not instruct him to mention the added condition. Furthermore, other witnesses, who believe that Francis gave his consent under a condition, deny that he had full faith in the words of his fiancée. And although the witness now asserts: "I never doubted Margaret's innocence, after her heartfelt entreaties," nevertheless, he never stated that he had agreed to marry her without a condition; this reasoning seems paradoxical, since the exclusion of doubt regarding the guilt of the fiancée, indeed, seems to exclude the imposition of a condition. This is further clarified by the fact that Francis at that time did not consider the possibility of marrying a woman who was pregnant, and it has been established from I. 16 § 3 ff. of the *Institutiones* that no one would want to, or would have wanted to, marry someone who was pregnant, of whom he had never thought before.

[*Latin ed. p. 343*]

BÜGELLEN. 343 does not consider the matter. Indeed, questioning the judge, concerning the time of the marriage celebration with Margaret, did you not consider the possibility of a case that could be verified, namely, marrying a woman already pregnant? Francis answered: I did not consider it, because at that time I was tranquil in that matter. Certainly, if any doubt had entered his mind, it would have been likely to be raised for some time, since the pregnancy would certainly be revealed after a short time. It seems to me that security should have been sought in advance, remarked the witness Baptista Sala, and this is what the witness Clothildes Carta also reports. Furthermore, the imposition of a condition does not seem to be completely excluded from the manner in which Francis acted, but rather is explicitly stated in the testimony of the witness Peter Cossa, which is as follows: I said to Francis: I would postpone the marriage until the truth emerged. I know, he continued, that Francis, while hearing the clamor of the neighbors, repeated that he did not want to believe that Margaret was pregnant, and that he wanted to marry her in any case. Therefore, it is easy to believe that Francis was deceived by Margaret and, through error, consented to the marriage, but I will never admit that a conditional marriage can be proven from the acts. Nor could it be said that an accidental error in the matter of the bond weakens its strength. For an error which does not fall upon the person, as, for example, if, while thinking that you are entering into a marriage with a virgin, healthy and noble, you take a harlot, a leper, or one born by the roadside, etc. (St. Alphonsus, *De Matrim.* 1011, 1012), does not invalidate the marriage, because it is publicly important that marriages not be dissolved; nor will it benefit you that you erred through the deceit of the other party, and that the deceit was effective: for deceit alone

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vitiates the contract according to civil law. D'Annibale, *Summula theol. mor.*, book 3, treatise 6, n. 444. Regarding the act of marriage, nothing is to be added, since the judge asked: Francis and the witnesses have stated that the celebration of this marriage presented no circumstance worthy of note. It can only be observed that an argument for a condition cannot be taken from the omission of the civil act, because, to omit the others, even Francis's mother testified: in these places, it is customary to engage in acts for several months.

[*Latin ed. p. 344*]

344. BUGELLEN. A disgraceful celebration followed the religious ceremony. The civil act could not take place due to the premature separation of the couple. After the marriage was entered into and consummated, Francis soon discovered his wife's pregnancy, but nevertheless, he continued to live with her and perform marital duties until, after consulting with her parents and a lawyer, he dismissed her after about twenty days. However, we know that no mention was made at that time of the condition that had been imposed; indeed, the husband reproached the woman, who was reluctant, with not being purified, and used words that are unbecoming of a religious man; he said, "Return to your home, for as long as the civil act has not yet begun, you are both still free." However, the matter of the condition was not mentioned until more than twenty months had passed since the separation, and then it was first brought up in the Episcopal court. But these matters aside, a few things must be said about the use of marriage. It is known that Francis discovered his wife's pregnancy on the very first night of their marriage; he said: "From the very first time, I noticed that Margaret was pregnant, I spoke to my parents, who wanted to subject her to a medical examination." And although he adds that he continued to have relations with her until he was certain of the pregnancy, and then ceased altogether, nevertheless, it is clear from everything that even after the wife's pregnancy was discovered, he still adhered to her carnally. This was testified to by Margaret herself. I know that Schmalzgrueber, in his work, teaches that a marriage entered into under a condition, whether present or past, is not validated by subsequent carnal intercourse. But it is also important to note what is written in Sánchez De Matr., book 5, section 8, number 25: "Therefore, if, while the condition is pending, the couple has intercourse before the priest and witnesses, it is presumed that the Church has relinquished the condition and that the marriage is perfected by virtue of 'Per tuas, De conci, app.'" The same will be the case in the internal forum, even after Trent, if the intercourse was mixed with marital affection, because the form of Trent has already been observed in the prior contract, and it must be judged as if the condition had been fulfilled. Furthermore,

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on this subject...

[*Latin ed. p. 345*]

BÜGELLEN. 345 Lest I should presume that Francis has, through the use of marriage, withdrawn from his condition, I thought that he would demonstrate by his conduct that the condition was never imposed. Furthermore, it must not be overlooked that the condition, if I find you to be a virgin—and therefore also this—if you do not bear a child, must be considered as invalid and, as it were, not attached, whenever the investigation of this is understood not to be through a lawful means, but through intercourse. Sánchez, book 5, section 16, paragraph 7; Reinffenstuel, book 4, title 5, paragraph 38; Pirhing, etc. In this case, Francis proposed to Margaret that she submit to a physical examination by a doctor, but only after he had consummated the marriage several times. Moreover, if any doubt remained in this case, it would not benefit Francis in the least, since it is known that in cases of doubt, the validity of the marriage must be judged. After these things, I consider it superfluous to speak of the purification of the condition, either because it cannot be deduced from what has been said that it was imposed, or even because the woman herself has stated that she gave birth to a child five months after the beginning of the marriage. Therefore, I conclude that there is nothing to indicate the nullity of the marriage between Francis and Margaret, and therefore the formula for doubting should be given a negative answer.

NOTES OF THE DEFENDER OF THE MARRIAGE FROM OFFICE.

The conjugal bond, which was entered into at the beginning of the year 1889 on February 7, when Francis Spina, aged 23, married Margaret Figino, who was 20 years old, is being attempted to be dissolved, with the claim that he married her "with the condition that she was not pregnant," a condition which he claims has been publicly demonstrated to be false. The most learned consultants, the theologian and the canonist, do not agree among themselves: the theologian, without hesitation, supports Francis, while the canonist strongly resists, to which I gladly subscribe; indeed, since he himself expounds the entire case accurately and learnedly, so that I may not seem to be acting, I will be brief. And first of all, I present the most eloquent fact, narrated by Francis' own mother: "My son said to me: 'Certainly, Margaret will be innocent!' "

[*Latin ed. p. 346*]

346. BUGELLEN. He had not asserted his own innocence, but rather, to avoid doing injustice to Margaret, he gave an order to Pastoretto to ask for Margaret's hand in marriage. When Pastoretto carried out this order, he told the mother that if Margaret was not innocent, Francis would not want to marry her, and he would even abandon her after the marriage

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had begun. After this, nothing further was added. Given that this situation had lasted for some time, it is quite pointless to argue about the condition that Margaret's mother had previously declared regarding her, because one must adhere to the order given later by Joseph Pastoretto. Indeed, it is clear that Joseph Pastoretto did not mention this previously declared condition in his orders, or that Francis is silent about it, and that Joseph Pastoretto, when brought to examination, says very little. Therefore, I can freely say that Francis intended to marry Margaret under the condition that she would not bear a child. For, according to the law, a condition held in the mind has no effect. But, to speak the truth, I should not admit this. For Peter Cossa affirms under oath: that when Francis heard the murmurings of the neighbors, he responded that he did not want to believe them, and that he would marry her even if she were so. Having these things in mind, the supposition must be dispelled. The Question: Does a nullity of marriage exist in this case?

RESOLUTION. The Sacred Congregation, after discussing the matter on September 9, 1893, decided to respond: Negatively.

FROM WHICH WE GATHER:

I. That it is certain that consent in the marriage contract can be subordinated to a lawful and possible condition, so that the marriage is truly valid or not, depending on whether the condition exists or not.

II. Although it may be left to the opinion of the doctors who say that the condition should be brought into the marriage contract itself before the priest and witnesses, nevertheless, the conditions ad-

[*Latin ed. p. 347*]

347 BUGELLEN. It may be said that certain things can be declared, and it is required in external matters that they be expressed, and that there be a clear indication of the addition of a condition. III. It seems to be maintained that it is possible to retain the matter, but that true consent was lacking in the man, although it could be conceded that he would not have led the woman into marriage if he had considered her to be with child. IV. It is one thing to manifest a certain will in general, and another thing to add it by way of a condition; so that under this, and not under any other, does one wish to celebrate the contract. V. From the jurisprudence of the Holy Congregation of Councils, it has been found that rigorous proofs are required when there is a dispute about the validity of a marriage due to a condition that was added and not purified. VI. Since it is publicly known that marriages are not to be dissolved, hence, even an error, not falling on the person, will not benefit him who has erred through the deceit of the other contracting party, unless the consent has been expressly linked to the condition. VII. There are not lacking authors who hold that, if, while

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the condition of the marriage is pending, the contracting parties have intercourse before the priest and witnesses, the Church is presumed to have relinquished the condition and the marriage is perfected. VIII. The condition, "if I find you to be a virgin, if you are not pregnant," is to be considered as shameful and therefore, as if not added, - whenever the investigation of this is understood to be through intercourse and not through a lawful means. OXOMEN. DISTRIBUTION. September 9, 1893. Through summary petitions. The chapter of the cathedral church of Oxomensis (in Hispania) had already been presenting to the Most Holy Father, since the month of May of the year 1868, the dignities, canons, and other ecclesiastical personnel. COMPENDIUM OF FACTS.

[*Latin ed. p. 348*]

348 OXOMEN. The canons, who were attached to the choir service, received, during the quarterly vacations, daily distributions, according to Article VI of the chapter constitutions and the most ancient custom, as if they were present in the choir. However, since this method of procedure seemed to contradict the disposition of the Holy Council of Trent, the Bishop of that time decreed that, from then on, one-third of the respective fruits of the prebend should be lost each day by the canons and beneficiaries of that church, for the days they were annually absent from the choir due to vacations; and he also ordered that recourse be made to the Apostolic See to obtain a remedy for what had been done in this matter in past times. "Therefore, the chapter, obeying the mandate of its Prelate, appealed to the Apostolic Benevolence, humbly imploring that, as far as it may be fitting, it would deign to grant them a remission for the fruits or distributions that the canons and the beneficiaries of this holy church received during the times of their respective vacations. To obtain this permission, the chapter noted that the canons and the other members of the cathedral clergy attached to the choir service had, up to the present time, received the respective daily distributions on the days of the vacations in good faith and without any remorse of conscience, due to the most ancient and unforgettable custom and the text of Statute VI," and it also humbly begged the Apostolic Benevolence "to grant or permit that the aforementioned practice, constantly observed according to the statutes of this church, be maintained in the future... If, however, it does not seem fitting to Your Holiness to grant this final petition, may it deign at least to grant an indulgence, so that the canons and beneficiaries of this cathedral church of Osma may, as in other cathedrals of Spain, receive the respective daily distributions on certain days of vacation, or recess, the number of which is confidently left to Your Holiness and Your Benevolence to determine." The prayers were immediately sent to the Bishop, so that, having heard the chapter, he might transmit the customary information and the petition to the Holy See; but, due to various political circumstances, a long

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time passed without any news.

[*Latin ed. p. 349*]

OXOMEN. 34 9 [persons] remained. When, in the recently elapsed year, the Vicar General, acting under the mandate of the infirm and absent Bishop, attempted to write: "Considering the good faith with which the canons and beneficed clergy, as the chapter states, adhering to an unforgettable custom and a capitular statute, have maintained the daily distributions, even during vacation periods; considering also the difficulty in restoring these distributions, both on the part of the heirs of those who have passed away from this life, and on the part of the beneficed clergy due to the meager revenues they receive, and the burden of food and lodging in this village; it seems fitting to the chapter that, for the sake of the requested remission, it be granted for the past; and furthermore, considering also the harshness of the climate in this region, which is quite cold, it also seems fitting to me that, out of Apostolic benevolence, at least a portion of the vacation time, or "good days," as they call them, be granted to them, during which they should not lose the daily distributions. However, those distributions which are lost by those who are absent, or who do not attend all the canonical hours with the choir, it seems to me that they should, if the fabric of the Church requires it, or another pious purpose, be applied at the discretion of the Ordinary, according to the mind of the Council; except for those who are beneficed, who, due to the meager revenues they receive from their benefices, are worthy of an Apostolic dispensation to be present with the choir and to receive the daily distributions which are lost by other absent beneficed clergy." A response was given to such requests on February 4, 1893: "Considering, etc., for the remission concerning the past; but concerning the future, for the remission of receiving distributions, only during half of the vacation period, at the discretion and conscience of the Ordinary, for a period of ten years." Most recently, when the same capitular requests, recommended by the capitular vicar, who stated: "All that has been stated by the chapter is true, and therefore we humbly commend their requests to Your Holiness," insisted on obtaining the grace of not losing the daily distributions during the entire vacation period, the matter was referred to the judgment of the Fathers.

[*Latin ed. p. 350*]

350 OSMA. A concise discussion regarding the practice that should be observed: It can be observed that, in the first place, the unusual practice of benefiting from the distributions granted during vacation time, permitted by the Council of Trent, is based on Article VI of the chapter statutes approved by the then-Bishop, Sebastian Perez, in the year 1583, which states and ordains: "That the dignitaries and canons of the Cathedral Church

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of Osma, having begun their residence, which begins on the kalends of January of each year, if they are absent for the greater part of the year, may be absent for three continuous or interpolated months, during which they shall be considered present, both in the common refectory, chamber, and distributions, as well as in anniversaries, as if they were personally present, except for the morning hours and anniversaries, which require personal presence. The portioners and chaplains, however, may be absent for two months, and may enjoy their rest as has always been observed, and shall participate in the canonical hours, except for the morning hours and anniversaries, according to the order of the Statute concerning daily distributions." Indeed, since it is certain that chapter statutes establish a law for the chapter, and these statutes have included a provision, namely that the canons "shall be considered present, both in the common refectory, chamber, and distributions, as well as in anniversaries, as if they were personally present" for three months; it seems not without foundation that they claim the right to the daily distributions; for by virtue of the statute itself, they are to be counted among the present, and therefore, they would rightfully be admitted to the benefit that is customarily distributed among the present. Furthermore, the force of the statute cannot be impugned; for although there is no explicit mention of a pontifical privilege in the cited constitution, nevertheless, the manner in which the chapter and the Prelate, at that time, acted, as well as the approval of the chapter and the Prelates of three centuries, seem to indicate that some privilege was granted by the Holy See. Moreover, there is an ancient and uninterrupted custom, which carries with it the presumption of apostolic approval, namely, that...

[*Latin ed. p. 351*]

OXOMEN. 351, which Saint O. records in Anagnina on the 25th of January, 1823. Indeed, it is clearly evident that this custom is ancient, from the very words found in the report of the Statutes of the year 1583, which state: "Therefore, approving the custom which is now observed"; and further: "The portioners and chaplains may be absent for two months, and enjoy their rest, and this has always been observed until now"; and the fact that it has never been interrupted is confirmed by the capitulars: "Statute VI has been observed until the present time, without anyone, whether from among the prelates or the capitulars of this church, objecting." This is openly confirmed by the ecclesiastical governor in his report to the Sacred Congregation of the Holy Office. "As for myself, I will say that it is true what the chapter states, both concerning the arrangement in the capitular statutes; both concerning the time and approval of this; and also concerning the ancient custom of receiving or not losing, during the vacation period, the daily distributions for canons and beneficiaries." Moreover, not only is it an ancient custom, but also a "centenarian" custom, "which, even in matters pertaining to the Church that may prejudice or

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diminish divine worship, introduces a full and most ample presumption of a better title, and therefore, also of Apostolic approval," as Urban VIII teaches in his constitution *Romanus Pontifex*, cited by Barbosa in *De pot. En. alleg.* 25, n. 72; the Rota in *Romana Oblationum* of the 25th of January, 1725, § 5; and the Sacred Congregation of the Holy Office in *Avenionen. Capellaniae* of the 16th of September, 1780. Furthermore, there are reasons of great importance for the confirmation of this practice, given by the capitulars, which are referred to almost verbatim by the Most Eminent and Reverend Fathers. They write: "From the year 1851, in which the convention began between the Apostolic See and the Kingdom of Cattolica, in which the statute stipulated that each beneficiary should have his pension paid by the Government, this pension has, to a large extent, been reduced until now, so that it can be asserted without any fear of error, that all the pensions established in the aforementioned convention have been lacking, in at least one-third, and sometimes even in more than one-fourth, of their amount, considering the circumstances." To this must be added that the Government has burdened the same pension, and in...

[*Latin ed. p. 352*]

352. OXOMEN. The days are burdensome, and the reduction is minimal, amounting to only eleven for every hundred, and yet, no hope of improvement appears, rather, it is justly and rightly presumed that the intention of the Government is to increase this reduction. It is clear that the income of all the beneficiaries is entirely insufficient and inadequate to meet the necessities of life, as befits clerics. Furthermore, it must be noted that this chapter is entirely without resources. Indeed, in this church, neither anniversaries, nor the chapter table, nor other pious works, nor the aforementioned manual distributions, beyond the customary ones, nor anything else is found, by which the poverty of the beneficiaries might be alleviated. Moreover, it is worthy of consideration, Most Reverend Father, that the loss of distributions, during the half of the vacation period, which all the beneficiaries are required to observe by decree of the Holy Congregation, diminishes the pension to no small extent, but rather to a considerable degree, namely, one-third of the daily income. Finally, in the aforementioned sixth article, two other causes are mentioned, namely, besides the time-honored custom, continuous and constant residence, and also the vicissitudes of the weather... And indeed, fevers, both tertian and alternating, have always been and are frequent, so that the chapter members are often compelled to absent themselves from the choir and the town due to illness.

> PRACTICE: DAVID IS REPULSED.

On the other hand, it must be noted that the provisions of this chapter openly contradict the Tridentine law, Session 21, chapter 3, and Session

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24, chapter 12, which states: "But those who have been absent during the appointed hours shall receive [distributions]; and the others, unless there has been any collusion or remission, shall be deprived of these, according to the decree of Boniface VIII, which begins 'Concerning Customs,' which the Holy Synod restores to use 'notwithstanding the statutes and customs.'" Therefore, it seems entirely unnecessary to bring forward the sixth article of the chapter constitutions, approved by the Bishop. For it is known that a lower law cannot derogate from a higher law, and such statutes have expressly been abolished by the aforementioned Tridentine Synod, Session 24, chapter 12, §. Furthermore, Pignat. Cons. 115, n. 3, vol. 9; Reiff. L. III, tit. 4.

[*Latin ed. p. 353*]

OSMA. 353 n. 175; and Sacred Congregation of Rites in Ivrea, March 20, 1830; and in Ravenna, September 20, 1879; etc. And by the same reasoning, the appeal to custom appears useless, because in our case, the Council of Trent, in the cited chapter, while establishing that distributions should be obtained by those who benefit from them, reprobated and condemned any contrary custom. How much weight this clause carries, especially after the Constitution *Princeps Apostolorum*, promulgated by Pius IV, for strengthening customs, both those that preceded the decrees of the Council of Trent and those that followed, is certainly known to no one. Cf. De Luca, *De can. et cap. discept.* 33, n. 3. This opinion is undoubtedly to be adopted, as demonstrated by the constant practice of the Sacred Congregation, which has always held that those absent due to vacations permitted by the Council of Trent lose their daily distributions, notwithstanding any custom, even an ancient one, as in Piacenza, June 14, 1670; and in Civita, October 1587. Therefore, in law, the custom in question is to be considered corrupt, which cannot be strengthened by the passage of time. In fact, or in the particular case we are discussing, what its value is, is shown by the authority of the Bishop of Osma, who instructed the chapter: "to appeal to the Apostolic See to obtain redress for those things that have been done in this matter in past times." It would be quite inappropriate to seek an apostolic indult in this matter, which would be a conclusive solution, rather than proving it through arguments. Furthermore, in this matter, a sufficient cause of necessity might not be seen if the beneficiary were to decline. In truth, the ecclesiastical governor writes in his report: "the revenues of the choral benefices, which, after the most recent Concordat of 1851, the government is to pay, are: four thousand and five hundred *libellas* (pesetas) per year, which the dean should receive; three thousand and five hundred *libellas* for each of the four dignities and the four canons in office; three

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thousand..."

[*Latin ed. p. 354*]

354 OSMA. "The canons retain their letters; and those who receive benefits receive only one thousand and five hundred letters per year; but now, eleven letters are deducted from the total revenue for each hundred, by the Government itself, for the provision of stipends." Regarding another ordinance of the Bishop of Osma, namely, that the portion of distributions lost due to absences should not be added to those present, but should be applied to the Church, it seems to conform to the disposition of Trent, chapter 3, Session 22, where it is stated concerning dignities, persons, and offices, that "those who have not fulfilled their service shall lose the distribution of that day, nor shall they acquire ownership in that manner, but it shall be applied to the fabric of the Church, as it may require, or to another pious work at the discretion of the Ordinary." And although it often happens in chapters that the portion of distributions lost by those absent is added to those present, and indeed it is said to constitute a common law according to chapter *Consuetudinum Bonifacii VIII*, and chapter 12, Session 24, and chapter 3, Session 21 of the Council of Trent; nevertheless, the true distinction, as *Moneta Tract, de distr, quotici, part. 1, quaest. 3 seqq.* and others state, is that whenever there is a single chapter table, or at least a single and undivided mass of distributions, the right to increase [the portion] exists, so that the chapter's revenue does not decrease; but if the stipends are distinct, as seems to be the case after the Concordat in the cathedral churches of Spain, and if, for the purpose of encouraging the diligence of each individual, a system of penalties is introduced for distributions from the common mass, then there is no right to increase, but, according to the aforementioned chapter 3, Session 22, the pecuniary penalty lost due to negligence shall be ceded to the Church or to another pious work at the discretion of the Ordinary. With these considerations in mind, the question was raised as to what should be answered in prayer.

RESOLUTION. "The Holy Council, after discussing the matter on September 9, 1893, decided to respond: Let them rejoice in what has been obtained."

FROM WHICH WE GATHER: "It is possible for those who receive benefits in Osma to enjoy the privilege of receiving, as if present, distributions for half the time of vacations only."

[*Latin ed. p. 355*]

VARSOVIA, sive LUBLIN. Dispensationis die 15 Iulii 1893. Sess. 24, cap. 1, de Reform. COMPENDIUM FACTI. Die 5 Octobris 1889, in ecclesia Piliohoviensi, dioecesis Plocensis, nuptiae inibat Angela Grorecka, quae 21 annos vix attingebat, et Valentinus Bialosuknia, 38 annos natus. Infelicem exitum huiusmodi nuptiae sortiti sunt. Quia Angela, quae, ut videtur, a

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precibus et minis patris ducta, Valentinum, quem aversabat, ad matrimonium coegit, vix quattuor diebus cum illo commorata, domum patris rediit, et, si ipsam audias, matrimonium non consummatum est. Paucis elapsis mensibus, Angela, Varsaviae tunc permanens, Curiam adiit, ut, per delegationem Ordinarii Lublinensis, in qua dioecesi vir versabatur, inquisitionem institueret ad probandum suum matrimonium consummatum minime fuisse, ut deinde ab matrimonio tantum rato dispensationem obtinere posset. Archiepiscopus primum conavit sponsos ad mutuam concordiam revocare; verum cum prudens eius consilium in irritum cessisset, mulier praesertim, et gravibus profecto de causis, repugnante, tunc iudicium institutum est. Mulier percontata est, et septima eius manus, vir quoque interrogatus; sed cum deinde in Curia sisti renuisset, contumax renuntiatus fuit. Testes mulieris causam separationis sponsorum exortis dissidiis assignarunt, eo quod illa nupserit invita, et inhonestam agendi rationem viri erga se perferre noluerit; omnes tamen religionem, pietatem ac veracitatem actricis commendant. Peracta subinde est corporalis mulieris inspectio per tres obstetrices, matrona adstante, adhibito balneo aquae tepentis, et exquisitum quoque fuit duorum medicorum votum; omnesque absque haesitantia de illius virginitate inconsummationeque matrimonii sententiam tulerunt.

[*Latin ed. p. 356*]

VARSOVIA, or LUBLIN. The Archbishop, subsequently, by letters dated July 1, 1892, transmitted the proceedings of the case to the Sacred Congregation, noting that, from the judicial investigation, the inviolate virginity of Angela was demonstrated, and that just and weighty reasons for granting a dispensation were not lacking, and he humbly requested that this grace be benignly granted. To this petition, the explanation of the aforementioned woman herself is added. Synopsis of the Argument. The woman's advocate submits that two things are required for granting a dispensation: namely, that it must be established that the marriage was not consummated, and that just causes for dispensing exist. He argues that the former can be demonstrated by numerous arguments. First of all, he presents the testimony of Angela, who states that the marriage was never consummated, although it was attempted several times: "Although I was very unwilling and displeased with my husband, and when I was alone and very troubled, I may perhaps have been subject to carnal intercourse, but my husband was unable to complete it." He maintains that such a confession from a woman, given the exceptional probity and piety of the same, deserves great consideration. However, he argues that the husband contradicts himself, because, after having affirmed "I have not consummated the marriage," he then said: "I am not entirely certain that my wife was defiled." Furthermore, he maintains that, since he has stubbornly persisted in defiance of the judge's commands,

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he is not worthy of any credence. On the contrary, Angela's testimony should be given the greatest weight, even because the witnesses, all of whom are of unimpeachable character, unanimously praise her, as if in an echo, extolling her as a virtuous and devout woman, who could not possibly commit perjury. However, he says, it is not necessary to rely solely on the testimonies of witnesses, because a physical argument for the woman's virginity can be presented, which cannot be refuted in any way. Furthermore, three midwives and, again, doctors, under oath, unanimously declared the woman's integrity to be most certain.

DEFENSE OF THE WOMAN.

[*Latin ed. p. 357*]

WARSAW, OR LUBLIN. 357 days. Indeed, the midwife Szyszkowska, having examined several signs of virginity, stated: "I have found all these signs in Angela Bialosuknia, and I am certain that she is a virgin." Josephine Dabrowicz testifies: "In the aforementioned case, I have found all the signs of virginity in Angela Bialosuknia, and I am convinced that she is an intact virgin, a belief which I support with the findings from the examination of her body. The hymen of the actress is oval, intact, and in no way violated." This is strongly corroborated by the third midwife, Bielinska, who reports: "The overall appearance of the body, and the condition of the breasts, clearly indicate that she is certainly and undoubtedly chaste. In Angela Bialosuknia, I found a hymen of oval shape, intact, free of any openings, exhibiting no fissures or injuries, with an opening that barely allows the tip of the little finger to pass through." The sworn and unquestionable judgment of the three midwives regarding the virginity of the woman was confirmed by the testimony of two doctors, one in writing and the other in a sworn examination. Indeed, the doctor Wojcikiewicz, after considering the reports of the midwives, stated: "The actress is capable of performing her profession, but, as her body examination reveals, she has not consummated marriage, thus preserving her inviolate virginity, which is accurately demonstrated by the presence of an intact hymen. Therefore, Angela Bialosuknia has remained a virgin until now." Furthermore, Doctor Bondy writes: "Based on the unanimous findings of the midwives, and especially on the integrity of the hymen, which is completely intact and has a small opening, it must be concluded that Angela Bialosuknia is a virgin and has not engaged in marriage." The doctors also confirmed this before the judge, answering the questions posed to them. Indeed, Doctor Wojcikiewicz, recalling the midwives, stated that, in addition to other signs of virginity, they found "an intact and inviolate hymen," and, under oath, confessed: "I maintain that the actress has remained a virgin until now, and has not consummated marriage, and that this state is certain and free from all doubt." Finally, Doctor Bondy testifies: "Having considered the

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opinions of the midwives, I believe that the actress possesses the integrity of virginity and is capable of performing the marital act, an opinion..."

[*Latin ed. p. 358*]

358. VARSAVIA. OR LUBLIN. Indeed, I support this with the presence of an intact hymen, a small opening, and the absence of any organic defects in the woman. "Therefore," the advocate adds, "five experts in the art have given a certain and absolute judgment regarding the woman's virginity, having instituted a comparison between a virgin and a deflowered woman, and having considered color, demeanor, and the comparison of parts, and especially the integrity of the hymen and the absence of traces, which would certainly have been present if the hymen had been broken in any part. Since such questions depend on a fact known to experts in the art, therefore, the Sacred Congregation wisely prescribes that this means of proof, with a prior oath and other precautions, should be used. Where these things have been demanded for execution, as has been the case here, it follows spontaneously, by safely trusting in the experts in the art. Therefore," he concludes, "from the sworn testimony of five experts, there is no doubt that the woman is still endowed with perfect virginity, and therefore, the marriage has not been consummated."

Turning to the other point, he notes that, besides the ordinary causes, another particular circumstance was present in this case, namely, the very serious doubt of coercion imposed upon the woman. He insists that fear and force were indeed used, and this is primarily proven by the testimony of the woman herself: "I consider this coercion to be grave, because it so violated my freedom that I went to the marriage completely unwilling and against my own will. Immediately before the marriage, I said to my father - 'I will not return the dowry to my husband, and I will be ungrateful, indeed, utterly hateful' -; but my father disregarded my pleas, and imperiously ordered me to marry, and added: 'You will poison my old age, and you will disturb my rest even in the grave.' Two days before the marriage, I wanted to withdraw to my room, so that in this way I might postpone the term of the marriage, and then completely free myself from the marriage. But my parents did not allow it, as confirmed by the aforementioned witnesses."

The woman's deposition, which the advocate defends with its certain weight, is confirmed by several other witnesses. Indeed, pa-

[*Latin ed. p. 359*]

WARSAW, OR LUBLIN. 359 ter states: "I was forcing my daughter to marry Valentino Bialosuknia. I used persuasion, threats, and the denial of paternal blessing if she intended to marry someone else." Luszczewski testifies: "The actress married against her will, which I gather from her expressed desire to marry someone else; therefore, she also asked me to intercede with her father, so that he would allow her to marry that other person."

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Lucina Kosinska, Sophia's sister, testifies: "Three days before the wedding, my sister was with me (I was already married), and she pleaded with me to speak to our parents and persuade them not to force her to marry." These testimonies, along with those of the actress's mother, Vladislaum Podczaski, Adam, and Anthony Kosinski, relate to this coercion. Given these testimonies regarding the coercion, it is noted that the husband did not present any evidence, and was declared contumacious by the judge. However, even if such coercion cannot be proven in this case to the extent necessary to petition for the nullity of the marriage, the demonstrated lack of consummation of the marriage remains a very serious reason for granting a dispensation. But other just and serious reasons are also lacking. Indeed, it is stated that this coercion resulted in such aversion on the part of the woman towards her husband that there is absolutely no hope of reconciliation between them. This is not only confessed by the actress, but also by the Archbishop himself, who, while recommending her petition, adds: "that the spouses have mutual disgust and such aversion that there is absolutely no possibility of restoring cohabitation between them." This discord of spirits is, as a just cause for a dispensation, cited by Ursaia, Disput. 21, n. 76 and 77, vol. 3; Fagnanus in cap. Quia circa 6 De consan. et affin, n. 7; Corrad. in Praxi dispens, lib. 8, cap. 7, n. 3, and others, who state that the opinion of these authors is confirmed in the practice of the Sacred Congregation. Another serious reason for a dispensation is the danger of incontinence. The actress is still of a youthful age, and the husband is certainly not advanced in years. This reason is presented by the woman in her petition, and also by the Archbishop in his recommendation for the dispensation.

[*Latin ed. p. 360*]

360 VARSAVIA. OR LUBLIN. The petitioner requests a dispensation, because "the spouses are at an age where the danger of incontinence threatens both of them." This reason is also commonly taught as being sufficient for granting a dispensation, as seen in Sánchez, *De Matrim.*, Book 12, Disputation 19; Fagnanus, *In cap. Verum*, n. 11, *de convers. coniug.*; Ursaia, Vol. 3, Part 2, n. 92; and finally, the Sacred Congregation has always held this view. Therefore, since there is no doubt about the lack of consummation of the marriage, nor about the existence of just causes for granting a dispensation, he believes that the requested grace should be safely granted.

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE BOND. The defender of the Sacrament vigorously argues that it is not clear that there was a lack of consummation of the marriage, nor that there are just causes for granting a dispensation. First, with regard to the confession of both spouses, he rejects it at the outset, because, according to Sánchez, *De Matrim.*, Book 2, Disputation 45, n. 33: "A confession, when made in favor of those confessing, proves nothing." Indeed, the defender observes,

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not only the countess, but also the count, in the present case, oppose the marriage. Furthermore, the defender of the marriage argues that it has not been proven to the husband that the marriage remained unconsummated. He says: "I have attempted to exercise the conjugal act with my wife on several occasions. Only twice did I introduce my member into the body of my wife. I did not consummate the marriage, because when I wanted to introduce my member further, a persistent delay occurred before I could ejaculate, and my wife, by the mercy of God, wept and detested the consummation of the act. I, out of pity, refrained from fulfilling my duty. I am not entirely certain that my wife was defiled, because when I introduced my member into her, I felt no resistance... Therefore, I declare that the action of my wife in seeking a dispensation is ambiguous to me." However, Angela affirms that the marriage was unconsummated, and the defender of the marriage denies the credibility of her testimony, not only because she fabricates circumstances that do not exist in reality, but also because her testimony is remarkably at odds with the husband's confession. "The actress," says the defender, "states that the marriage was not consummated..."

[*Latin ed. p. 361*]

WARSAW. OR LUBLIN. 361. I believe the cause to be that the husband, as far as I can understand, was not able to consummate the marriage—perhaps I had intercourse, but the husband was not able to complete it. Furthermore, without scruples, Angelmann, according to the advocate for the bond, has contradicted the truth. For, she recalls, in the letter given to the Ordinary of Lublin, she herself affirms: "My marriage was blessed on October 5, 1889... On the following day, I left with my mother from the husband's dwelling, and I have not returned since." On the other hand, it is well known that the couple lived together for at least four days, which, it is believed, also appears from the sworn deposition of Adam Kosinski, and also from the statement of Valentinus himself: "I lived under the same roof with my wife in Philichowo for three days, and in Warsaw, in the Hotel Krakowski, for two days." Therefore, the advocate continues, even Angelmann herself confessed before the Archbishop of Warsaw: "I stayed with the same man (Valentinus) for four days, and I left him without the marriage being consummated." The advocate does not consider the testimony of the *septima manus* to be of greater weight; indeed, not even one witness from the husband's side was questioned, contrary to the precept of the Sacred Congregation given in the Instruction of August 22, 1840, which states: "Proceeding will be made to the examination of the *septima manus*, that is, seven relatives from each side, according to the prescribed form" (cf. canon). With these premises, he argues that this occurred through the cunning and artifice of Angelmann. Indeed, since she knew perfectly well that the witnesses who could be called

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from Valentinus's side resided in Lublin, and that it would be impossible to bring them to Warsaw for examination without great expense, and therefore, in order to save expenses, Valentinus would not have brought them, she demanded that the investigation be held in Warsaw, despite the husband's domicile being in the Lublin diocese. In truth, the advocate adds, Valentinus, who saw his rights trampled upon by the delegation for the investigation being appointed by the Administrator of the Lublin diocese, without being heard, refused to bring witnesses before the judge in Warsaw.

[*Latin ed. p. 362*]

362. VARSOVIA, or LUBLIN. Furthermore, the examination of the actress's body performed by midwives does not move the defender. For one of the two doctors who instructed the midwives to examine the body and subsequently judged the reports of the midwives is Edward Bondy, who, contrary to the censure of the canons, had already examined the body of Angela even before the commencement of the trial. Indeed, Angela declared: "I have, until now, been a virgin." She supports her assertion with the opinions of the doctors Bondy and Ciszkiewicz, who examined her both visually and practically. Moreover, the defender demonstrates that the integrity of the hymen is not the primary proof of virginity, citing the words of Devergie in *Medicina Legale*, vol. 1, chapter 4. He also states that it has been proven that the hymen is present in many women, and that even with an intact hymen, they can not only consummate marriage but also conceive a child. However, in the present case, the defender concludes, the midwives and doctors, with one voice, testify that the hymen of Angela does not possess the form of a hymen in women who have conceived a child without any laceration of the same, and indeed have even lived lives without any significant bodily ailment. Indeed, he continues, the midwife Leocadia Szysykowska stated: "The hymen of the actress is round, rosy, and thin, offering no resistance"; Anna Bielinska: "The hymen, although somewhat thick, offers only slight resistance." The doctor Edward Bondy: "A sufficiently thick hymen is visible, offering no resistance," which was also confirmed by Iosepha Labrowicz and Felix Wojcihiewicz. Finally, he recalls that Valentinus stated: "I am not entirely certain that my wife has been defiled, because when I introduced my member into her, I felt no resistance." Turning to another point of his argument, the defender points out that a dispensation cannot be granted in this matter without very serious reasons, and he cites the testimony of Leuren in *De Foro Eccl.*, book 4, question 277, who states that a just reason is required, not only for the lawfulness, but also for the validity of the dispensation. With this established, he maintains that the fear, according to which the actress had contracted

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marriage contrary to the law, is not proven.

[*Latin ed. p. 363*]

WARSAW, or LUBLIN. 363. Indeed, the truthful Angela testifies: "Two days before the wedding, I said to my husband, asking him to tell me if he felt any affection for me. He received this with a joke." Furthermore, Valentinus recounts the same event with these words: "On the day before the wedding, my wife said to me: 'Having reflected more deeply, I see that you love me less than is fitting for a wife.' To this, I replied: 'Consider well; there is still time.' Shortly afterward, she came to me and said: 'I did not say this from the depths of my heart, but merely to see if you loved me.' Three days after the wedding, she said to me that she had been forced to marry me by her parents, and that she felt no affection for me. No actions were ever discovered that proved that the wife had been forced to marry me. And if I had observed, or even perceived, such a thing, I certainly would not have taken her as a wife." Finally, the defender of marriage points out that Valentinus not only dispelled any doubt, but also indicated the true reason why Angela left her husband, with these words: "In my opinion, the wife left me because her parents realized that their hope of benefiting from my wealth had been disappointed." However, it is considered that Valentinus deserves more credit than Angela, or at least, that Angela's actions should be considered, given that she took steps to prevent any suspicion of infidelity from arising from the husband's side, and to what extent he deserves that credit. Therefore, having considered these matters, the following question was to be resolved: Whether or not it is permissible to request a dispensation from a valid but unconsummated marriage in this case.

RESOLUTION. The Sacred Congregation of the Council, after deliberation on July 15, 1893, decided to respond: Affirmative.

[*Latin ed. p. 364*]

364 FROM THE HOLY CONGREGATION OF RITES, GOA. Various Doubts. The Most Illustrious and Reverend Lord Anthony Sebastian Valente, the present Patriarch of the Orient and Archbishop of Goa, has submitted the following Doubts to the Sacred Congregation of Rites, for opportune resolution, namely:

Doubt I. Whether the Canons, when attending a private Mass, should stand, or kneel, at the beginning of the Mass, and for the Benediction, as they assist at the said Mass? Furthermore, whether they may use canonical insignia during said attendance, or only over the surplice, or even the rochet, if they enjoy that privilege?

Doubt II. Can it be tolerated that, in the Office of the Feria of the IV, V, and VI days of the Greater Week, the chants of Lamentations, the Responsorium, and the Psalms *Miserere* are performed simultaneously with the

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sound of the organ or other instruments, and that, during the continued exposition of the Most Holy Sacrament, verses (motets) are sung together with the sound of the organ or other musical instruments, either at the Vespers of the V day, or in the morning of the VI day of the same Greater Week?

Doubt III. In the chanting of the Gospel of the Passion of Our Lord Jesus Christ during the Greater Week, can the following be permitted: a) the use of thuribles or censers, and also of books? b) that the singers have their faces turned towards the Celebrant? c) that one singer is in the ambo, and the others are in separate places, also at another altar? d) When the Celebrant is lacking ministers, should one of the singers of the Gospel of the Passion take his place at the ambo, or rather at the ambo of the Epistle?

Doubt IV. In some churches of the Archdiocese of Goa, the feast of the Transitus of the Blessed Virgin Mary is celebrated on the 13th day, and the 14th day of August, through a procession in which the image of the same Mother of God is carried in a coffin, as if she were dead, and is left there until the First Vespers of the day of the Assumption. Then...

[*Latin ed. p. 365*]

From Sacred Canons, Ritual, 365, the question is raised whether an image can be erected and made to appear alive. Is it permissible to tolerate such practices with these rituals? Doubt V. Can it be tolerated to cover the image of Our Lord Jesus Christ with a veil or pall during the procession on Holy Thursday, as is customary in the Archdioceses of Goa, as is also sometimes done in the aforementioned procession of the Assumption of the Blessed Virgin Mary? Doubt VI. Is it permissible to use curtains and floral decorations that are commonly used in churches for funeral occasions? Doubt VII. In the Seminary of Rachol, a certain day is celebrated each year with great pomp and ceremony, marking the beginning of the school year. Is it fitting for such solemnities to provide a sufficient reason for celebrating, as is done, a votive Mass in honor of the Holy Spirit? And if so, can the Ordinary grant permission for this Mass to be celebrated perpetually? Doubt VIII. Since the titular saint of the aforementioned Seminary church is Saint Ignatius of Loyola, should the name of this saint be mentioned in the prayers in all the Masses celebrated in the interior chapel of the Seminary, in place of the name of the patron saint of the place? Doubt IX. Can the Ordinary transfer the date of a feast day for any reason, even a minor one, and permit that on the proper day of the feast, only the Mass of the day be celebrated without any other ceremony, in the same church where the feast will be celebrated on the transferred day? Doubt X. Should it be abolished, or can the common practice be maintained in the Archdioceses of Goa, which, although contrary to the prescription of the Ritual, namely that in the burial of clerics or boys, the parish priest, instead of preceding, should follow the coffin, at least when it is the burial

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of a cleric? Doubt XI. When the Bishop is present on the throne during a Mass celebrated by someone who holds a dignity in the Chapter, can he sit in the chair during the Gloria and the Creed, while the Bishop remains on his throne, with his arms crossed and a stole over his shoulders? Doubt XII. When Canons celebrate Mass on certain days, with or without the presence of the Bishop, is it permissible to use an alb adorned with fringes or a net from the waist down? Doubt XIII. When the Ordinary entrusts the administration of a parish church to a Regular priest, must this priest follow the diocesan calendar in the celebration of Mass?

[*Latin ed. p. 366*]

366 FROM the Sacred Congregation of Rites, concerning matters proper to the Order; and in order to provide a definitive response regarding the following questions, concerning whether secular priests celebrating in the same church should follow the diocesan calendar, even if this entails a difference in the color of the vestments? And the aforementioned Sacred Congregation, after mature deliberation regarding the following questions presented by the undersigned Secretary, decided to respond as follows:

I. Regarding the blessing and the use of the rochet with the surplice: Affirmative.

II. Regarding the Lamentations, Responses, and the Psalm *Miserere*, as well as other liturgical parts: Negative, except in the choir before the Most Holy Sacrament, where it may be tolerated, considering the ancient custom.

III. Regarding the first part: Affirmative; regarding the second and third parts: Negative; regarding the fourth part: Affirmative concerning the first question, and a decree was issued in Trent on March 14, 1836, concerning the fourth part: Negative concerning the second.

IV, V, VI. May be tolerated.

VII. Regarding the first part, it is to be determined by the Bishop; regarding the second part: Negative.

VIII. In the private chapel of the Seminary of Rachol, during the prayer *A cunctis*, the name of the titular saint of the same Seminary must be expressed.

IX. Negative.

X. The Roman Ritual, Title 6, chapter 3, paragraph 1, must be observed.

XI. Decrees notwithstanding.

XII. May be tolerated.

XIII. Regarding the first part, a decree was issued in Tuden on May 23, 1846, concerning the fifth part; regarding the second part: Postponed.

And thus it was decided and declared. On June 16, 1893.

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(1) C. CARD. ALOISI - MASELLAS.

R. C. PRAEF. L. & S.

Pro R. P. D. VINCENTIUS NUSSIS.

R. C. Secretario

IOANNES Can. PONZI

Subst.

(1) TUDEN. V.

Question: Whether regular priests, having been expelled from their monasteries throughout Hispania, and for this reason being assigned as pastors or vicars in various churches, may or must recite the Divine Office and celebrate Mass according to the calendar of the diocese in which they serve, or according to the regular calendar of the Order to which they belong by reason of their religious profession?

Answer: In the case of the Divine Office, the regulations of the Order are to be followed, but on feast days, Mass for the people is to be celebrated according to the calendar of the diocese.

[*Latin ed. p. 367*]

367 FROM THE SACRED REGULATIONS OF MILAN. A Doubt Regarding Chaplains of the Ambrosian Rite. By order of the Most Reverend Archbishop of Milan, the undersigned, his Pro-Vicar General in Spiritual Matters, humbly submits the following doubt for opportune declaration: Namely: Whether priests of the Ambrosian Rite, serving as chaplains under the patronage of the Ducal Family, and administering chapels in monasteries visited by the public urban church of Saint Sophia, who celebrate according to the prescriptions of the Ambrosian calendar, in their proper color, except for the most solemn feasts for which they use only certain colors, may do so? And the Sacred Congregation, after consideration of the report of the undersigned Secretary, and with the careful vote of other Apostolic Masters of Ceremonies, deemed it advisable to write the following regarding this doubt, namely: Affirmative, and a decree shall be issued in Milan, on the 16th of December, 1828, provided that on the more solemn days they conform to the calendar of the Church in which the Sacred Office is performed, regarding color and the Mass. And thus it was replied, on the 23rd of June, 1892.

CAL CARD. ALOISI-MASELLA, S. R. C., Prefect.

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L. * S. VINCENTIUS NUSSI, Secretary.

OF THE CITY AND ITS DISTRICT. The faculty is granted to observe the feast of the Holy Family on the third Sunday after Epiphany, and to transfer it, etc.

That the devotion to the Holy Family of Jesus, Mary, and Joseph may increase in the Alma Urbe [Rome] and its District, especially since the Most Holy Pope Leo XIII earnestly desires that Christian families be bound more closely to this devotion through the Association of the Holy Family instituted by him; and the Most Reverend Cardinal Lucidus Maria Parocchi, Bishop of Albano Laziale, and Vicar of the same Most Holy Pope in Rome, humbly implored that the clergy, both secular and regular, of the city and its district, may annually observe the feast of the Holy Family of Nazareth on the third Sunday after Epiphany, according to the Double Rite, with the Office and Mass recently approved.

[*Latin ed. p. 368*]

368. By virtue of the authority granted by the Sacred Rites, the feast day may be transferred to the first free day following, according to the rubric, whenever a proclaimed Sunday impedes the celebration. Furthermore, the Sacred Congregation of Rites, exercising the faculties specially granted to it by the Most Holy Lord, benignly approved the petition of the Reverend Orator, observing the rubrics, notwithstanding any contrary regulations. July 21, 1893. *S. PROR. P. D. VINCENT.

Doubt concerning the manner of celebrating the nativity of a saint or blessed. December 19, 1893. In recent times, it has begun to increase that the centennial commemoration of the day of birth of certain souls of Heaven is celebrated with solemnity. Therefore, the Sacred Congregation of Rites requested that it be declared: Whether the temporal nativity of any saint or blessed, except that of the most holy Virgin, nor of St. John the Baptist, can be celebrated according to the liturgical rite or by some other sacred solemnity? This doubt, having been signed on the day indicated in the meetings of the Ordinaries of the Sacred Congregation of Rites, was proposed by the aforementioned Cardinal Prefect, and the Reverend and Most Reverend Fathers judged it fitting to respond as follows: Negatively, even if the celebration were to take place on the day of his death or on any other day dedicated to the memory of the same saint or blessed. December 19, 1893. These matters having been brought to the knowledge of Our Most Holy Father Leo XIII, the aforementioned Cardinal Prefect, the Holiness of His [the Pope] approved the judgment of the aforementioned Sacred Congregation, and ordered that the present decree be promulgated so that it may be observed by all, everywhere, with the utmost piety. July 21, of the same month and year. *S. C. Card. ALOISI-MASELLA, Prefect. R. C.

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VINCENTIUS NUSSIS, Secretary.

[*Latin ed. p. 369*]

FROM THE SACRED RITUALS, 369, NAMEN. Decree concerning the Beatification and Canonization of the Venerable Servant of God, Julia Billiart, Foundress of the Congregation of the Sisters of the Blessed Virgin Mary. Whereas, on the ninth day of June of the current year, Our Most Holy Lord Pope Leo XIII, with paternal benevolence, has already decreed that the Ordinary Process concerning the life of sanctity, virtues, and miracles of the aforementioned Venerable Servant of God, Julia Billiart, may proceed without the intervention and vote of Consultors; and whereas, Most Reverend Lord Raphael Maria Virili, Bishop of Urban, and Promoter of this Cause, I, the undersigned Cardinal, Prefect of the aforementioned Sacred Congregation, and Introducer of this Cause, have, in the Ordinary Sessions of the Sacred Congregation of Rites, discussed the following question, signed on the day indicated, held at the Vatican, namely: Does it appear from the validity and relevance of the Process, conducted with Apostolic authority in the city of Namen, concerning the life of sanctity, virtues, and miracles of the Venerable Servant of God, in this case and to the effect of what is being considered? Therefore, after careful deliberation by myself and the Most Reverend Fathers entrusted with the preservation of the Sacred Rites, and after hearing the opinion, both orally and in writing, of the Most Reverend Father Augustine Caprara, Promoter of the Holy Faith, it was deemed necessary to respond: Affirmative, that is, it does appear. December 19, 1893. These matters having been reported to Our Most Holy Lord Pope Leo XIII, His Holiness approved and confirmed the response of the Sacred Congregation of Rites on the 21st day of the same month and year.

* CARDINAL ALOISI - MASELLAS. R. C., Prefect. L. œ s. VINCENTIUS NUSSI, Secretary.

FROM NULLIUS (or CAVENSE). Decree concerning the confirmation of the cult rendered from time immemorial to the Servants of God, Alferius, Leo, Peter, and Constantius, Abbots of the Order of Saint Benedict, now recognized as Saints. To the Tyrrhenian Monastery of Cava, which Abbot Alferius founded, and which was dedicated to the Most Holy Trinity by heavenly inspiration, they added a glorious addition, namely, Alferius, Leo, Peter, and Constantius.

[*Latin ed. p. 370*]

370 From the Sacred Congregation of Rites, those who succeeded him in office. These men, having abandoned their homes and worldly honors, and dedicating themselves wholly to God, embraced the monastic life. Through their virtues, the praise of learning, and their skill in administering affairs, the monastery itself grew so much that it can rightly be said of them: "The

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Lord guided the just in paths of righteousness, and showed them the kingdom of God, and gave them knowledge of the saints; He glorified them in their works, and fulfilled the works of them" (Wisdom 10). Furthermore, the entire Benedictine Order, so deserving of sacred and civil honors, was greatly illuminated by their works. Moreover, the singular sanctity of these servants of God, which they had acquired during their lives, was so widely and longingly spread after their death that, until our own time, it has persisted for over twelve centuries. The ecclesiastical cult, which had been established for these four men according to the laws of Urban, as is clearly attested by documents and by numerous papal decrees, continued to exist until this time. As for Peter, it is particularly noteworthy that the Apostolic See had already granted the diocese of Policastro a special seat in honor of him, so that the memory of him might be observed each year with a Mass of the second class. Moved by this, the Most Reverend Father Michael Morcaldi, the present Abbot of Caventium, instituted his own investigation and pronounced a judgment on the aforementioned cult of these servants of God. Subsequently, the proceedings were transmitted to the Sacred Congregation of Rites, which requested the immediate approval of the cult of these same servants of God from the Apostolic See, for the fourth time. Therefore, in the aforementioned Cardinal, Prefect of the Sacred Congregation of Rites, and Relator in this case, the following question was discussed at the ordinary meetings of the Sacred Congregation, held at the Vatican on the date indicated: Does it pertain to the cult rendered to these servants of God from ancient times, or does it pertain to a case excepted from the decrees of Pope Urban VIII? Furthermore, the Most Reverend and Venerable Fathers, entrusted with safeguarding the sacred rites, after due consideration, and after hearing the voice and the written opinion of the Reverend Father D. Augustine Caprara, Promoter of the Holy Faith, decided to respond as follows: Regarding Peter, provision has already been made; regarding the others, the answer is affirmative. December 19, 1893. Subsequently, a report was made to His Holiness Pope Leo XIII by the aforementioned Cardinal.

[*Latin ed. p. 371*]

FROM THE SACRED RITUAL, 371. His Holiness approved and confirmed, on the 2nd of the same month and year, the rescript of the Sacred Congregation.

CARD. ALOISI-MASELLA, S.R.C., Prefect.

L. * S.

For the Most Reverend Father John Vincent Ponzi, Substitute Secretary.

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FROM THE SECRETARY'S OFFICE, Regarding the Most Recent Constitutions of the Benedictines.

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June 12, 1893.

It has always been the constant endeavor of the illustrious Order of St. Benedict to cultivate sanctity and all that is conducive to human virtue, and to be a most excellent support and ornament to the Church and to the commonwealth, and in both times to be a most outstanding example. Wherefore, we are not surprised to offer arguments for the renewed zeal and the outpouring of solicitude; for we are certainly confident that the students of this Order, emulating the industry of their predecessors in both the aforementioned areas of praise, will ensure that it flourishes as it did in the age when it reached the highest peak of solid glory, and that it extends its branches even to the sea (1).

With this in view, Our most beloved Son, Joseph Benedict, Cardinal Dusmet, of the Sacred Roman Ecclesiastical Order, who, having devoutly heeded Our desires, was recently summoned by Us, came to the City, in order that he might first lay the foundation stone of the College of St. Anselm, to be built on Mount Aventine, and preside over the assembly.

An assembly of Abbots and delegates from various Benedictine houses, which are called "provinces." This assembly was convened in order that, after deliberations, decisions might be made regarding matters pertaining to the common good of the entire Order, especially in order that a fraternal association might be established, as if by a tacit agreement, which would hold together all the families that are part of this Order, bound by the sweet bond of mutual charity.

(1) Psalm 79:12 (Douay-Rheims).

[*Latin ed. p. 372*]

372 FROM THE SECRETARY'S MINUTES: Whereas the aforementioned Abbots and delegates had met several times in the buildings of Saint Callistus, and after carefully and seriously deliberating on the matters proposed, they wrote down certain agreements and resolutions for the common good of the entire Order. These were diligently brought to Our attention by Our beloved Son, Joseph Benedict, Cardinal Dusmet, who visited Us after the ninth day before May, this year, requesting that, if they seemed agreeable, they be confirmed by Us. Therefore, after having inquired the opinion of certain Most Reverend Cardinals, to whom We specifically entrusted the care of examining the aforementioned documents, We judged that assent should be given to the most fitting proposal. And We have decided, by Our Apostolic authority, to approve and confirm the agreements and resolutions of the aforementioned Abbots and Delegates, expressed in the following words:

"1. All Congregations of the Benedictines, whom they call 'black,' constitute a true and fraternal Confederation, although no Confederation subjects any Congregation to another. In order that this Confederation may

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have some unity, all the aforementioned Congregations of the Benedictines, as We have said, shall remain firm in their Constitutions or declarations; in their respective Archabbots, or General Abbots, Presidents, and also in their General Procurators and Visitators; and also in the rights and privileges of each monastery. An Abbot Primate shall be created among all the Congregations, who shall reside in Rome for the good of the entire Order, directly attending to its affairs.

2. The Abbot Primate shall be chosen from the entire body of Congregations, without any distinction of nations, nor shall any distinction be observed among those Congregations themselves, but only by consideration of virtue, suitability, and merit.

3. He who is thus elected, once constituted as Abbot Primate, shall simultaneously be the Abbot of the College of Saint Anselm in the City, with ordinary jurisdiction, and shall remain there. However, the College shall not be considered to belong to any of the aforementioned Congregations, but shall have a family composed of all the Congregations, which the Primate himself will constitute, with the hearing of the Rector of the College. All the superiors of each Congregation shall follow the Primate in forming the aforementioned family of the College, except in cases of special necessity."

[*Latin ed. p. 373*]

FROM THE SECRETARY OF BREVIARIES 373, § 4. The office of the Primate of the Benedictine Congregations and of the Abbot of "St. Anselm" lasts for a period of two years; therefore, every twelfth year, the Presidents of all the Congregations, and, insofar as it is possible, all the Abbots, shall convene in Rome to elect a new Primate, or, if it can be done, to confirm the existing Primate for another two years, and also to discuss other matters as mentioned above, unless the Primate, for a very serious reason, should be obliged to convene the aforementioned Presidents and Abbots before the end of the two years.

If, however, the Primate should die within the two years (or if, for some other reason, his office should become vacant, either in law or in fact), the administration and discipline of the College of St. Anselm, during the period of the vacancy, shall be in the hands of the Rector of the same College, who, without any delay, after the death of the Primate, and upon request from the Supreme Pontiff, shall convene all the Presidents of the Congregations and the Abbots as mentioned above, in order to hold an election within six months.

Only he shall be considered elected as Primate and Abbot of St. Anselm, to whom two-thirds of the votes are given in the election. For the first time, the Abbot of St. Anselm and the Primate shall be he whom the Most Holy Pope Leo XIII, our Protector and most benign Patron, shall deem worthy to assume the burden of this office.

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§ 5. The Rector of the College of St. Anselm, with the will and consent of the Abbot, knowing well the administration and discipline of the same College, and respecting all matters concerning the relations of the College with each of the Congregations, shall consider the Abbot of St. Anselm as the Primate of all the Congregations. The Rector shall, moreover, render all possible assistance to the same Abbot in promoting the College, especially in the selection of Professors, in establishing a curriculum of studies adapted to the needs of the individual Congregations, insofar as it is possible, and shall not introduce any new practices, or any changes to the monastic discipline or studies, without the consent of the Abbot of St. Anselm.

These articles, statutes, and decrees of the Benedictine Families, both in their entirety and in their individual parts, as they are written above, we approve and confirm with our Apostolic authority, and we shall ensure that they have the force of law, and that all the aforementioned Families shall be perpetually bound to observe them, notwithstanding any constitutions, decrees, privileges, customs, or other provisions whatsoever, even if they are of special merit, which might otherwise be contrary to them.

[*Latin ed. p. 374*]

374 FROM THE SECRETARY OF INDULGENCES, and in accordance with the present regulations, we wish that the following be inserted here, word for word. Furthermore, in addition to the aforementioned statutes and decrees which we have confirmed, the Abbot Primate shall be appointed to preside over the Confederation of Benedictine Families. He shall also be the Abbot of the College of St. Anselm in the City, and for this first time, by our own motion and authority, we choose and appoint the esteemed son, Hildebrand Hemptinne, Abbot of Maredsous, from the Beuronese Congregation, to this office, which we bestow upon him for as long as it pleases Us and Our successors in this Holy See. Moreover, through Our Congregation, which is dedicated to the affairs of Bishops and Regular Canons, the specific duties of the Abbot Primate shall be defined separately, as well as his rights and obligations towards the entire Order, so that the unity of all the families may be preserved, as is intended by the institution itself. In the meantime, since ancient wisdom teaches that even small things, let alone greater ones, grow through concord, and since the harmony of brothers is celebrated in divine words, as proven before God and men (1), we confidently hope that this union of all parts of the Order will not only contribute to its splendor and greatness, but also that the fruits it brings forth will abundantly benefit the Church and the entire human society, with God's blessing. Given in Rome, at St. Peter's, under the Fisherman's ring, on the 12th day of July, in the year 1893, in the sixteenth year of Our pontificate. ALOISIUS CARD. SERAFINI.

CUNEENSIS: Doubts regarding the admission of Christian faithful into

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the Third Orders of certain Orders. The priest, John M. Silvestro, from the diocese of Cuneo, presents this to the Sacred Congregation for Indulgences, stating that a certain member of the Third Order, namely the "secular" Order of St. Francis of Assisi, has been co-opted (1) [Eccli. xxv. 1. 2.].

[*Latin ed. p. 375*]

From the Sacred Congregation for Indulgences, 375, it is known that the tertiary members of the Servants of the B. Virgin Mary desired, indeed, requested, and obtained the faculty to admit the faithful into the same Third Order of the Servants of the B. Virgin Mary, before this Sacred Congregation issued its Decree on January 3rd of the current year. However, on June 21st recently passed, this same Sacred Congregation declared that the aforementioned Decree had retroactive effect, and it is certain that the Oratory was granted the faculty to co-opt the faithful into the Third Order of the Servants of the B. Virgin Mary; and since a member of this Third Order has emerged, the solution to the following doubts is humbly requested from this Sacred Congregation: I. Did the Oratory legitimately admit the faithful into the aforementioned Third Order, and did it validly accept their professions before the promulgation of the Decree of June 21, 1893? And, to the extent that the answer is negative: II. Can the aforementioned acts be renewed for the faithful with legitimate priestly authority, or rather, can they be validated? The Sacred Congregation considered that the proposed doubts should be answered as follows: To I. Affirmative, before the promulgation of the Decree; Negative, after the promulgation, unless the Oratory has expressly declared that it does not wish to belong to the Franciscan Third Order, and has chosen, as is given to it, to remain among the tertiary members of the Servants of the B. Virgin Mary. To II. As provided in I. Rome, from the Secretariat of the same Sacred Congregation, on September 1, 1893. F. R. IGNATIUS CARDINAL PERSICO, Prefect. S. f. ALEXANDER, Archbishop of Nicopolis, Secretary. General Concession of a Hundred Days of Indulgence for prayers, as in the prescribed booklet. Brno, Most Reverend Father. Father Bernard of Fivizzano, from the Capuchin Province of Tuscany, prostrated before the Holy Foot, humbly supplicates: Father Bernard of Fivizzano, from the Capuchin Province of Etruria, humbly prostrates himself before the sacred feet and requests that...

[*Latin ed. p. 376*]

From the Sacred Congregation for Indulgences, 376, We, with the Apostolic Blessing, grant an Indulgence, that is, a remission of temporal punishment, applicable also to the souls in Purgatory, which may be obtained by reciting the following prayers in suffrage for the souls in Purgatory.

I. The following ejaculation: "Most Sweet Jesus, increase in me faith, hope, and charity, and humility of heart."

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II. The hymn of St. Francis, which is recited first in the Vespers of the Feast, for the increase of devotion to the Most Holy Patriarch, with the following words:

"O Victim of Divine Love, wounded with a bloody wound, Francis, who reflects the image of the living Cross of Christ. In your living form, you bear the cold, the ice melted, so that with holy fervor, hearts may burn. Consumed with the fervent flames of charity, ready to give blood to Christ, you thrice contemplated the shores of the barbarians. Thus, with terrifying weapons, you crush the abyss of Hell: You subject the Temple of Virtue and of Fermo to the groaning. Having made a vow, but not living, you desire to extinguish the flames: And you excite heavenly fires, burning with love. Be present, O Father, to those who pray, and kindle in our hearts the fire, where your immense charity burned. May praise be to the Father and the Son, and to the Holy Spirit, who grants us the spirit of emulation from the best of Parents. Amen."

And so forth. The Sacred Congregation for Indulgences, using the faculties specially granted to it by the Most Holy Pope Leo XIII, has benignly granted a hundred days' Indulgence, to be gained once a day by all the Christian faithful who piously recite [the above].

[*Latin ed. p. 377*]

From the Sacred Congregation for Indulgences, section 377, concerning the aforementioned indulgences, both those pertaining to the honor of the Most Sacred Heart of Jesus, and those pertaining to the Hymn in honor of Saint Francis of Assisi. This Indulgence, as declared by the same Sacred Congregation, is applicable to the souls suffering in Purgatory. It is valid perpetually, without any brief expedition, contrary to whatever may be alleged to the contrary. Given in Rome, from the Secretariat of this Sacred Congregation, on the 13th of September, 1893.

Fr. Ignatius Card. Persico, Prefect.

L. S. F. A.

Archbishop Nicopolitan.

Secretary.

Saint James of Chile.

Regarding sacramental confession for gaining plenary indulgences, which are granted as often as desired each day, or in the form or manner of a Jubilee, Hildephonsus Saavedra, Canon of the Penitentiary of the Metropolitan Church of Saint James of Chile, proposes the following doubt to this Sacred Congregation for clarification:

"Whether the privilege of Clement XIII, by which one may confess at least once each week, and may gain plenary indulgences within that

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week with a single Communion, even though a Breviary Confession is prescribed, is still valid, and whether it may also be extended to gaining the Indulgence commonly known as the Portiuncula on August 2nd, and whether the Sacred Congregation has given a response of 'Affirmative'; it is asked:

I. Whether this response should be maintained as a general rule, also for other indulgences granted as often as desired on the same day?

Also, since another doubt was proposed in the aforementioned document from Verona on March 12, 1855, namely, 'Whether a weekly confession is also valid for gaining an Indulgence in the form of a Jubilee,' and the Sacred Congregation responded 'Negative,' it is asked:

II. Whether, under the name of an Indulgence 'in the form or manner of a Jubilee,' with regard to the effect of confession, are to be understood only those indulgences, as taught by Doctors of Canon Law, which are granted to the entire Catholic world by the Holy Pontiffs for some special event, such as the creation of a Cardinal?"

[*Latin ed. p. 378*]

378. Furthermore, the following are also to be maintained concerning Indulgences: those which can be gained as often as possible each day, such as that annexed to the feast of August 2nd, known as the Portiuncula, and others recently granted on the feast of the Blessed Virgin Mary of Mount Carmel.

III. To the Confessors, concerning the faithful who reside in this Archdiocese, and who, not habitually, but once or twice a week, attend Confession, may they gain the Indulgences pertaining to that week, with the exception of those properly belonging to Jubilees, or those granted in the manner of a Jubilee?

And the Sacred Congregation, on December 5th, 1893, responded to the doubts as follows:

To I: Affirmative.

To II: Affirmative concerning the present practice; Negative concerning 2 a.m. and 1 a.m.

To III: Negative, without an Indult, and with this understanding: Let it be communicated to the Orator that this Sacred Congregation has previously decreed the following: on June 12th, 1822, for the entire City and the World; on September 28th, 1838, for the Province of Assisi; and on December 15th, 1841, for the Province of Mechlin.

Given in Rome, from the Secretariat of the aforementioned Sacred Congregation, on the day and year above.

[Signature] FR. IGNATIUS CARD. PERSICO, Prefect.

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[Signature] L. S. f ALEXANDER, Archbishop of Nicomedia, Secretary.

[*Latin ed. p. 379*]

379 APPENDIX IV. EXHIBITING THE ACTS OF THE APOSTOLIC SEE; WHICH ARE EITHER ALREADY PUBLISHED OR WHICH HAVE BEEN BROUGHT TO THE ATTENTION OF THE EDITOR OF THIS PERIODICAL. S. C. S. Office, November 17, 1835 — Letter from Quebec concerning various doubts regarding the marriages of Catholics and Protestants.

2. It is asked: Whether a marriage contracted before a magistrate or Protestant minister, with two witnesses, between a Catholic and a Protestant, both of whom are minors, without the consent of the parents of one of the parties, ought to be considered valid or not.

3. Is a marriage valid if contracted by two Protestants without any witness?

4. Ought a marriage contracted between a Catholic and a heretic, with neither party having a witness present, to be considered valid?

5. Is a marriage valid if contracted between two Catholics alone, without any witness, or before two witnesses in a place where they cannot have recourse to the ministry of any approved priest?

6. When one party is Catholic and the other heretic, and they are married before a magistrate with only one witness, or before a Protestant minister with only one witness, can the magistrate or minister be considered as the second witness? And is this marriage valid?

7. Is a marriage valid if contracted between two Catholics, with two witnesses present, before a parish priest who is invited and refuses to consent?

8. If a Catholic pretends to be a Protestant or an apostate, with the intention of entering into marriage with a Catholic woman before a Protestant minister and two witnesses, is such a marriage valid?

9. Two Catholics of the diocese of Cattolica, perceiving some impediment to their marriage, seek to enter into it fraudulently before a magistrate in the territories of the United States of North America, in regions where the decrees of Trent have never been promulgated. Ought such a marriage to be considered valid?

[*Latin ed. p. 380*]

380 APPENDIX IV. R. ... Regarding point 2. Affirmative for the regions of Canadae to which the Benedictine declaration extends. Indeed, we have already pointed out that neither minority of age nor parental dissent invalidates marriage, a principle that applies not only to Catholics, but also to even Protestants, since heretics are also bound by the sacred laws of the Church, and, especially in matters concerning the Sacraments, secular laws cannot in any way prejudice the enactments of the Church. Finally, the absence of a parish priest in the case expressed only gives rise to clandes-

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tine marriage, which does not invalidate the marriages of heretics in those places where the Benedictine declaration has force. Moreover, as Benedict XIV states in his work *De Synodo Dioeces*, in mixed marriages, the party who is free from the law, and is immune from it, is considered to communicate that same immunity to the other party; therefore, clandestine marriage does not obstruct mixed marriages contracted in the regions of Canadae. Regarding point 3. It is valid for the regions of Canadae: for there, the Benedictine declaration is in force, which declares valid those marriages which are contracted clandestinely by heretics. Regarding point 4. It is valid for the regions of Canadae because of the frequently cited Benedictine declaration, which extends to those places. This is evident from the statements in the solution to question 2. For greater clarity, it is best to quote the words of the same Benedict XIV. In Book 6, Chapter 6, *De Synodo Dioeces*, he wrote: "When one of the spouses, either by reason of the place in which he lives, or by reason of the society in which he lives, is exempt from the law of the Council of Trent, the exemption, of which he enjoys, remains with the other party, because of the individuality of the contract, by virtue of which the exemption, which belongs to one of the parties, extends to the other, according to even civil laws, and is communicated to him." These words, as can be seen, are so clear and explicit that they leave no room for doubt regarding the validity of such a marriage. Regarding point 5. The first marriage is valid for the inhabitants of the diocese of Quebecensis who only use missionaries. Indeed, the Sacred Congregation of the Propagation of the Faith, in the year 1820, decreed: "For the inhabitants of the diocese of Quebecensis, who only use missionaries, and until they do so, there is no place for the decree of the Council of Trent, regardless of whether the distance is greater or less; and the missionaries are to report the marriages celebrated in their jurisdiction to the respective Ordinary." From these words, it is clear that the aforementioned inhabitants can enter into marriage without a parish priest or any witnesses, since both obligations arise from the same Tridentine decree, to which the aforementioned Congregation has declared there is no place. Conversely, it must be affirmed regarding those inhabitants who live in places where there are parishes.

[*Latin ed. p. 381*]

APPENDIX IV. 38. Decrees; for these cannot in any way be exempted from the law of the Council of Trent. Therefore, the marriages of these individuals are considered invalid if they are contracted without the presence of any witnesses. Regarding the marriage mentioned above, it is also to be considered valid: for the Sacred Congregation of the Council declared on March 30, 1669, that whenever a Catholic priest or other clergyman is either not present or does not have the free power to be present, marriages contracted even without anyone present are considered valid, provided they are celebrated before two witnesses. Furthermore, Pope Pius VI, ad-

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hering to this declaration, confirmed the validity of marriages contracted in Gallus during the time of the revolution, when the churches lacked legitimate pastors. 6. The marriage is valid for the regions of Canada, due to the declaration extended there. It must be repeated here that we have already sufficiently and abundantly warned that marriages of this kind are always valid, even if they are contracted without the presence of any witness. Therefore, it seems superfluous to inquire whether a magistrate or minister, being a heretic, can be considered as another witness. Why so much concern about another witness, when in the case in question, due to the granted dispensation, the presence of any witness is not required for the validity of the marriage? Moreover, the secular laws, if any are in force in the region of Canada, which annul clandestine marriages, have no power before the Church, and we have already warned that they deserve to be rejected in our response to question i. Therefore, those who contract marriages in the regions of Canada should be carefully instructed that they are not bound by those secular laws in the forum of conscience, and that they are therefore united before God, so that no human power can tear them apart. 7. Valid. Thus decreed the Sacred Congregation of the Council in 1581, responding to question 3 of the Bishop of Gienn, expressed as follows: "If a priest is present unwillingly and compelled by force while a marriage is being contracted, does such a marriage subsist?" The answer was: "It subsists." 8. Negative: for if one of the spouses feigns heresy or apostasy, he does not thereby abandon the Catholic faith of his own accord. Therefore, when both spouses are truly Catholics, they are subject to the impediment of clandestinity. However, if only one of the spouses feigns this, but truly lacks the Catholic faith, having turned to heretical wickedness, then a mixed marriage would arise, which, as is clearly evident from the above, must be considered valid. 9. Valid, if the spouses also transfer their domicile there; invalid, if they retain their original domicile. It is desirable here to present the resolutions given by the Sacred Council in response to three questions, from which it is most clearly evident what is the mind of the Church regarding these or similar cases. The following question was asked: "1. Does... "

[*Latin ed. p. 382*]

382 APPENDIX IV. » Inhabitants, both male and female, of the place where the Council of Trent was promulgated, passing through a place where said Council was not promulgated, intending to enter into marriage there, could validly contract marriage in that place without a parish priest and witnesses. 2. What if said inhabitants, both male and female, merely intend to transfer themselves, without a parish priest and witnesses, to that place, without changing their residence? 3. What if they transfer their residence with the sole intention of contracting marriage there, without a parish priest and witnesses?

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The Holy Congregation responded to 1 and 2: that a legitimate marriage does not exist between those who transfer themselves and pass through with fraud; and to 3: that if the domicile is truly transferred, the marriage is valid. Sacred Congregation of the Holy Office, May 6, 1886. — Concerning the requirement of a domicile for quasi-domicile. At the request of the Council of Baltimore (Plenary III), a petition was made to the Holy See to determine whether those who transfer themselves from a place where the law of Celibacy is in force, to another place, provided that they remain there continuously for at least one full month and have proven their freedom of status, as is their right, should be considered to have a quasi-domicile there for the purpose of marriage, and whether an inquiry should be made as to their intention of remaining there for the greater part of the year. On May 12, 1886, the Holy See approved. Sacred Congregation of the Holy Office, November 26, 1835 — A doubt concerning the parish priest in mixed marriages. Whether, in mixed marriages, the priest should also abstain from pronouncing the words: "I join you in marriage." Whether the parish priest should abstain from pronouncing the words: "I join you in marriage" in mixed marriages. R. The parish priest assisting at a marriage of mixed religions should abstain. From a letter of the Sacred Congregation, 8th Office, August 23, 1877. — A doubt concerning the admission of a penitent to receiving the sacraments in marriages with heretics. A doubt: Whether pastors of souls can, in valid marriages (with heretics), safely admit the penitent party to the reception of the Sacraments, provided that there is no public scandal.

[*Latin ed. p. 383*]

APPENDIX IV. 383 R. Concerning valid marriages, it is permissible to admit them to receiving the Sacraments without a prior renewal of consent, but they should be prevented from receiving them until they have given true signs of repentance, and have promised to exert all their efforts both for the conversion of the heretical party, and for the education in the Catholic religion of all their children, both those already born and those perhaps to be born; and finally, until they have obtained absolution from the censures incurred, in the case where they contracted marriage before a heretical minister. As for invalid marriages, since none of them are valid due to the vice of clandestine marriage, they should not be admitted to the reception of the Sacraments unless they have first promised, after obtaining a dispensation regarding the impediment of mixed religion, to faithfully observe all the conditions required in the aforementioned dispensation, and then, unless they have renewed their consent before a Catholic priest and two witnesses, and finally, unless they have first obtained absolution from the censures incurred, in the case where they attempted to contract marriage before a non-Catholic minister. S. C. S. Office, November 17, 1835. — Ep. Quebecen. A doubt concerning a marriage contracted by minors, without the consent

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of their parents. It is asked whether a marriage contracted by two Catholic minors, according to the forms prescribed by the Church, is valid, even though it was done without the consent of their parents. R. Affirmative; for neither the dissent of the parents nor the minor age can, in these times, be considered as impediments that invalidate marriage. We do not defer to the civil laws and the decrees of princes that are contrary to this opinion; for they are either to be understood as pertaining only to civil effects, as the most eminent men, Loret, Counselor in the Parisian Senate, Bishop Hubert of Vabrie, Cabassut, Gerbasius, Natalis Alexander, and others, believe regarding the edict of King Henry III, confirmed by Louis XIII; or, when they establish something that exceeds the limits of secular power, they are to be entirely rejected. Concerning those matters that pertain to the reason of the Sacraments, the full power of defining belongs solely to the Church, and not to secular princes. Moreover, in chapters *Licet* and *Tua*, concerning the marriage of two persons, such marriages were considered valid and declared to be so, and the Council of Trent, legitimately assembled in the Holy Spirit, condemned with an anathema those who falsely assert that marriages contracted by children without the consent of their parents are invalid.

[*Latin ed. p. 384*]

384 APPENDIX IV. that parents may be able to make it valid or invalid. Therefore, there remains no doubt concerning the validity of the aforementioned marriage. S. C. S. Officii, September 20, 1854. — Vic. Ap. Yun-nan. Doubt concerning a marriage begun with the wife of the elder brother, who is deceased. It often happens in these missions that the younger brother marries the widow of his deceased elder brother, and afterwards converts. It is very difficult to separate them because of the children already born, or because of the danger that they might be turned away from the faith. Their marriage seems to be invalid, since it is entirely prohibited by civil law, even under penalty of death. But after baptism, is it sufficient to validate their marriage if they merely renew their consent? R. With a prior dispensation of disparity of cult and the first degree of affinity, by the faculties with which missionaries are endowed, the consent must be renewed. But if subsequent evils are discovered, they must be abandoned in good faith. S. C. S. Officii, December 12, 1748. — Concerning the legitimization of children. When it is stated in the formula that the children conceived are to be declared legitimate (1), can the granting Bishop or the general vicar add in his dispensation, and declare the children conceived and to be conceived, legitimate? R. Affirmative. S. C. S. Officii, September 17, 1890. — Archiep. Composteli. Doubt concerning a dispensation regarding impediments. Whether, by virtue of the decrees of February 20, 1888, and March 1, 1889, Ordinaries, either by themselves or through parish priests, can grant dispensations concerning public ecclesiastical impediments, except for the

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priesthood and affinity in the direct line, for all those who are in articulo mortis, even if they have not celebrated a civil marriage, which they call it, nor are they living in concubinage. R. Negative. (1) In Formula III, under number 8, the following faculty is granted: "To dispense in the 3rd and 4th cases, both simple and mixed, not only with the poor, but also with the rich, in contracts and in those about to be contracted; with converted heretics also in the 2nd simple and mixed cases, provided that in no way the first degree is reached, and in these cases, the children conceived are declared legitimate."

[*Latin ed. p. 385*]

385 APPENDIX IV. From the Sacred Congregation of the Holy Office, December 12, 1748. A question concerning a dispensation in cases of impediment. Whether a marriage contracted with a prior dispensation over a more distant degree, without having previously obtained declaratory letters according to the Constitution of St. Pius V (1), is valid. Answer: His Holiness has taught that such marriages are indeed valid, but illicit, provided that the dispensations do not reach the first degree, and therefore, until the declaratory letters, or as they are also called, are issued, the spouses must be separated. And thus, He commanded that this be written down, notwithstanding a contrary decree of this Holy Congregation issued on November 13, 1732. From the Sacred Congregation of the Holy Office, April 23, 1890. Questions concerning the faculty of dispensing over impediments, etc. The Vicar General N.... humbly requests a solution to the following questions: — By letters of the Holy Office dated February 20, 1888, the Ordinaries of places were granted the faculty of dispensing, either by themselves or through an ecclesiastical person of their choosing, for the sick who are in grave danger of death, when there is no time to appeal to the Holy See, over impediments, whatever their public nature, which impede marriage according to ecclesiastical law, except for the sacred Order of the Priesthood, and for affinity of the direct line arising from a lawful marriage. However, by a decree issued on January 9, 1889, it was declared that the Ordinaries, in which (1) St. Pius V, in the Constitution *Sanctissimus*, August 20, 1566: "established and ordered that henceforth, in all dispensations, which are granted for marriages contracted or to be contracted between men and women, with prohibitions of consanguinity and affinity, whether mutual or arising from the same stock, whoever they may be, provided that they do not, in any way, reach the first degree, and that, in such cases, His Holiness, or the then reigning Pope or the Apostolic See, has obtained or granted them, and with letters and commissions, also to be made to the Ordinaries of places, the more distant degree is considered, and the nearer ones are included, and for this reason, only the more distant degree need be expressed, provided that declaratory letters are subsequently obtained for the nearer degree, according to the constitutions of Gregory and Clement,

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his predecessors, which, with regard to this matter, He renewed and commanded to be inviolably observed; and that dispensations, or commissions to dispense, and the letters and processes made above, which are granted for those over whom it is commanded to dispense, cannot be declared invalid for lack of deception or fraud, or for lack of intention, but must be valid in all respects, as if a special and explicit mention had been made in the letters, or in both degrees." Acts, Vol. XXVI, page COOVII, 25.

[*Latin ed. p. 386*]

386 APPENDIX IV. The aforementioned faculty, granted by the letters of February 20, 1888, can be habitually delegated to parish priests alone, but only for cases in which there is insufficient time to appeal to the Ordinaries themselves, and when there is danger in the delay. Therefore, the following questions are raised: (1) 1. Whether the Holy Congregation, through the words concerning impediments, however public, intended to confirm the common opinion of theologians, and especially the opinion of St. Alphonsus, which holds that Bishops can grant dispensations concerning hidden impediments in cases of urgent necessity, and whether this faculty can be delegated, even generally, as an ordinary and probable practice, so that the intention of the Congregation is to signify that Bishops can, a fortiori, grant dispensations concerning hidden impediments in the aforementioned cases. 2. Whether, in the very grave danger of death, assistant parish priests, when, due to the immense size of the parishes in that diocese, they cannot appeal to the Ordinary, can, in the name of the parish priest, grant dispensations concerning public impediments. 3. Whether, in the decree of January 9, 1889, do the words "in the name of the parish priests" also include temporary vicars, who, after the death of the parish priests or in their absence, provide assistance?

R. To 1. Affirmative, concerning the article of death, according to the force of the decree. To 2. and 3. The following response was given on the same day to the Reverend and Most Reverend Abbot of the Most Holy Trinity of Caven: — "Regarding the following doubts proposed by the Reverend and Most Reverend Abbot mentioned above: I. Whether, under the name of parish priests, are included also vicars, in the sense that, in certain cases, they, through the delegation to the parish priests, can, to the extent of a certain privilege or faculty, act as parish priests, just as vicars, who are not parish priests by institution, are removed from the parishes under the name of 'removable' or 'economus-curates,' and are strictly negative in this regard: — And whether II. In the most ancient and venerable Abbey of the Most Holy Trinity of Caven, are the curates, as if 'economus,' granted the faculty to act, at least also in the absence of the Abbot, as vicars of the Abbey, by custom, or are these curates of the Abbot or archpriest, to be extended in this way?" — The Most Eminent and Reverend Cardinals, Inquisitors General for matters of faith and morals, ordered that the aforementioned

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be written back on that day and on that day: — "To I. All who actually exercise the care of souls are included, excluding assistant parish priests and chaplains. — To II. Provision is made in the preceding." (1) The letters concerning which we have spoken are found in vol. XX, 543; the decree mentioned is found in vol. XXI, 696. Also see vol. XXII, 640.

[*Latin ed. p. 387*]

APPENDIX IV. 387. Secretum Consilii Sacri Officii, 23 Aprilis 1890. — *Utrum missionarii, sub nomine parochorum, ad ministeria adhibeantur.* *Utrum, cum Ordinarii facultatem delegandi dispensandi in casibus extremae necessitatis super impedimentis publicis matrimonialibus in mortis periculo, ex Indulto Supremae Congregationis 1 Martii 1889, ad parochos possint delegare, intelligatur et debeatur, ut missionarii, quamvis parochi stricte dici non possint, curam animarum habeant.* Responsum: Affirmative, pro iis missionariis qui parochialibus muneribus funguntur. Secretum Consilii Sacri Officii, 11 Iulii 1891. — *Dubium quoad verba "aegrotos etc."* Epistula vicentina ad pedes Sanctitatis V. reverenter exponit dubium: Ex litteris huius S. R. et U. Inquisitionis, diei 20 Februarii 1888, Sanctitas Tua benigne annuit pro gratia, qua locorum Ordinarii dispensare valeant « aegrotos in gravissimo mortis periculo constitutos super impedimentis quantumvis publicis matrimonium iure ecclesiastico dirimentibus, excepto sacro Presbyteratus Ordine, et affinitate lineae rectae ex copula licita proveniente ». Iam vero super intelligentia verborum "aegrotos in gravissimo mortis periculo constitutos" non leve dissidium exortum est inter quosdam. Sunt enim qui asserunt locum dispensationi tantum esse, cum impedimentum afficiat directe aegrotum, non vero, cum aegrotus sit solutus, et impedimentum tantum directe afficiat bene valentem. Dum alii, e contra, facultatem dispensandi Ordinariis concedi putant, quamvis aegrotus non habeat in se impedimentum, sed hoc directe tantum existat in bene valente. Unde, cum civiliter sint coniuncti, aut alias in concubinatu vivant, ex. gr. puella soluta et diaconus, illaque aegrotante, hic valens sit, possetne Ordinarius cum his dispensare? Vel si monialis aegrotans in concubinatu viveret cum diacono bene valente, essetne locus dispensationi, cum diaconus non sit in gravissimo mortis periculo constitutus? Responsum: Ordinarios locorum, vi decreti diei 20 Februarii 1888, in utroque casu allato dispensare posse, et in utroque pariter Sacram Congregationem Sacri Officii de impertita dispensatione certiorem reddere, ac ea interim curare debere quae in eodem decreto praescribuntur. — Sanctissimus approbavit.

[*Latin ed. p. 388*]

388 APPENDIX IV. SACRED CONGREGATION OF THE HOLY OFFICE, September 26, 1754. — Doubts concerning dispensations from impediments*. Regarding five doubts proposed by the Archbishop of Tours in France, and transmitted by the Most Holy Congregation of

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Propaganda Fide to the Holy Office, of the following tenor: 1. Henry Maria de Fleury, Archbishop of Tours in France, is unable to grant any dispensation concerning impediments that prevent marriage, unless by a special grant from the Apostolic See, by which power is given to him to dispense only with the poor; he asks whether he can dispense only with those poor who are so wretched that they live only by the labor of their hands and industry. 2. Assuming that he can dispense only with the poor, it is asked whether he can grant such dispensations to them for reasons that are merely shameful or dishonorable, even if other bishops grant the same dispensations under the same circumstances for any honest reason. The reason for doubting is that the Supreme Pontiff himself, from whom he obtains this special faculty, ordinarily dispenses only with such poor for reasons that are dishonorable. 3. If the aforementioned Archbishop is able to dispense for even an honest reason, can he dispense only for those honest reasons for which the Apostolic See itself grants dispensations, or also for other similar reasons? For example, the Supreme Pontiff grants a dispensation concerning the impediment of consanguinity or affinity with a girl who could not marry another man because of the scarcity of men in the area, or because of a lack of dowry; could the aforementioned Archbishop also grant a dispensation concerning the same impediment of affinity, or consanguinity, whether carnal or spiritual, with a girl who can only with difficulty marry another man, either because of the reasons mentioned, or because she is hunchbacked, lame, or otherwise deformed, or even because someone from her own blood relatives had been publicly condemned by a judge in the first, second, third, or fourth degree, or had been condemned to capital punishment? 4. Must the Archbishop demand not only the same reasons, but also the same circumstances or conditions, from those with whom he grants a dispensation, whether for a shameful or an honest reason, as the Supreme Pontiff is accustomed to demand in granting similar dispensations? 5. By the pontifical grant that the aforementioned Archbishop obtained, he is given the faculty to dispense in the third and fourth degrees of consanguinity or affinity, both simple and mixed; can he, by virtue of this faculty, dispense in the second degree to the third? R. It pleased the Most Holy Fathers, after hearing the votes of the Consultors and Cardinals, to respond negatively to the fifth doubt; and concerning the four previous ones, to order that it be indicated how the Apostolic See itself is accustomed to act.

[*Latin ed. p. 389*]

APPENDIX IV. Concerning dispensations granted to the poor in cases where marriage is impeded by the impediment of consanguinity, around the third and fourth degrees. For it is your duty, as the Most Holy Lord has added, to apply these same rules to those cases, as if you were a delegate acting according to the morals and customs of the delegating authority,

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and you are neither permitted nor obligated to deviate from them. Then He added: The Apostolic See has, from ancient times, not granted dispensations in cases involving the impediment of consanguinity, either of the third or fourth degree, or of affinity, unless there is a true and manifest poverty, and for some of the reasons mentioned below. Truly, the poor are not considered to be those who, as some think, possess some property; rather, they are those who are so wretched that they live only by the labor of their hands and industry. Therefore, the Apostolic See grants dispensations in favor of the poor only in cases where it is established by the proper testimony that the parties are poor, and this testimony must be drawn up according to the decree of Urban VIII, which states that the petitioners must be so poor and wretched that they live only from their own labor and industry. However, even those who possess some goods can legitimately be called poor, and therefore, the Holy See does not deny a dispensation in favor of the poor, even if the petitioners possess goods worth 300 Roman scudi if they live beyond the mountains; or, if they live beyond the mountains, a sum equivalent to 300 gold florins of the Camera. If they possess goods up to the value of 1000 scudi, or, respectively, 1000 gold florins of the Camera, a dispensation is nevertheless granted in favor of the poor, provided that the alms, which are commonly called "componenda," are paid, namely, 4 scudi for each hundred. This, as the Most Holy See reminds us, should either be paid as a contribution to the aid of the poor, or, if the parties are nevertheless seen to be poor, it may be remitted as an alms in their favor. Furthermore, a dispensation in favor of the poor is not granted to those who possess more than this, but rather under another form, namely, "ex honestis," which, however, is not included in the faculties granted. The reasons for which this dispensation in favor of the poor is granted by the Apostolic See are as follows: 1. Namely, because of the marriage that is intended to follow. 2. Because of infamy, namely, because a man and a woman have lived together, but without carnal intercourse; and yet, there is a suspicion, although false, that they have had carnal knowledge of each other. 3. For a woman who is twenty-four years of age or older, and who has not yet found a man of equal condition to whom she could marry. 4. Because of the narrowness of the place, or of places, namely, because a man and a woman live in...

[*Latin ed. p. 390*]

390 APPENDIX IV. In a place, whether it be the place where they were born, or in places where they were born, even if they are transferred from one place to another, if, because of their circumstances, they cannot find a man who is not a blood relative or an affine of equal standing to whom they could be married, this dispensation may be granted.

5. For lack of dowry: This is granted when a woman is without a dowry, and has no means of obtaining one, and the man intends to marry her, and

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to provide her, up to an amount appropriate to the woman's quality, with a dowry in full. However, it is added that, after the woman has been properly and fully endowed with a dowry, this is to be preferred.

6. Due to enmities: This cause is explained with the following words: when grave enmities have arisen between the parents, relatives, or affines of the man and the woman, and these enmities are still present, but they have arisen from a cause other than the intention of contracting marriage between them, and before the consideration of such a marriage; and it is certain that if the aforementioned man and woman were to be married, such enmities would be completely resolved; therefore, in order to resolve these enmities and for the sake of peace, they desire to be married.

7. For the confirmation of peace: This cause is explained as follows: when grave enmities have existed between the man and the woman, as well as between their parents, relatives, or affines, but these enmities have arisen from a cause other than the intention of contracting marriage between the aforementioned man and woman, and before the consideration of such a marriage, and although peace has recently begun, nevertheless, in order to confirm that peace, they desire to be married.

8. Due to lawsuits: Because, indeed, when grave lawsuits have arisen between the man and the woman, or between their parents, concerning matters of great importance, and these lawsuits are still ongoing, but they have arisen from a cause other than the intention of contracting marriage between them, and before the consideration of such a marriage, and it is certain that if the aforementioned man and woman were to be married, such lawsuits would be completely resolved, therefore, in order to resolve these lawsuits, and for the sake of peace, they desire, etc., but with this condition expressed: and that first, such lawsuits have been relinquished from this side and that, or their resolution has been achieved.

9. Due to heresy: Because those who are truly followers of the orthodox faith, and who live and intend to live and die under the obedience of the Holy Roman Church, and in those places where many heretics are present, cannot explore the minds of individuals, and cannot discern who truly professes the Catholic religion, and therefore, in order to avoid contracting marriage with heretics, they desire, etc., but with the following clause added: and provided that the aforementioned man and woman truly live in the orthodox faith of the Holy Roman Church, and intend to live and die as followers of that faith, and are under obedience.

[*Latin ed. p. 391*]

391 FROM THE HOLY CONGREGATION OF THE COUNCIL OF NICOTERA AND TROPEA. DOUBT. December 16, 1893. THROUGH SUMMARY PRAYERS. In the waning month of September of the current year, the Bishop of Nicotera and Tropea humbly submitted the following doubt to the Holy Congregation for resolution: "Whether a Bishop, while

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residing outside of his diocese, during the time granted by the sacred Canons, whether in his own home or in the home of others, or in a public inn, enjoys the same rights concerning the Mass as he would in the chapel of his episcopacy, so that any priest may celebrate and the faithful may fulfill the precept of attending Mass on holy days."

SYNOPTIC DISCUSSION: It is to be remembered that a dispensation was granted to Bishops from Chapter XII, "De Privilegiis," in the Sixth Tome, "so that they may have an altar for their journey and may celebrate and have Mass celebrated wherever it is permitted to them to celebrate or to hear the Divine Office without transgressing any prohibition." However, this privilege has not been revoked either by the decrees of the Holy Synod of Trent, Session XXII, concerning the observance and avoidance of certain things in the celebration of Mass, nor by the decree issued by Paul V in the year 1615, as noted by Monsignor Monacelli in *Form. leg. pract.*, part 2, page 38, Edit. Poni, 1844, who further adds: "Indeed, that chapel possesses the privilege of a public chapel; for those present, even if they are strangers, when the Bishop celebrates therein, both within the diocese and outside of it, fulfill the precept of the Church regarding the attendance at Mass on holy days, as the Sacred Congregation responded on September 22, 1640, in *Nullius* lib. 16, Decree, page 421, and previously on August 17, 1630, in the book 14 of the province of Lombardy."

[*Latin ed. p. 392*]

392 NICOTEREN. AND TROPIEN. Decrees, page 318; in Matheran, August 6, 1616, book 37, page 147; even if he is a titular bishop, ibid. Congregation, in Valencia, 1616; because, as the blessed Jerome wrote to Evagrius, "Wherever the bishop may be, whether in Rome, or Eugubium, or Constantinople, or Rhegium, or Alexandria, or Tanis, he possesses the same merit, the same priesthood." However, it is true that they cannot use this privilege outside of their own dwelling, as the aforementioned Sacred Congregation declared on December 15, 1703, a decree which was printed and published, approved by His Holiness Pope Clement XI. Nevertheless, Emilius D'Annibale, in Summa Theologica Moralis, part 3, book 1, treatise 1, number 3 (11), after teaching that the oratories of bishops, even when vacant or in the absence of the prelate, are to be considered public, observes: "But we must understand bishops here to mean not titular bishops in parts (Gattic. XVII 15, Gar dell. n. 4547), but rather those houses, not those in which they happen to reside, such as for the purpose of rural living, but the dwellings in which they habitually reside, either within the episcopal city itself, or outside of it." And therefore, he adds (16), that the faithful do not fulfill the precept of attending Mass on feast days in the oratories of titular bishops. But rather than citing the authorities of doctors, which could be cited more, the resolutions of the Sacred Congregation seem more relevant to the matter, as they have been carefully extracted from the books

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of Decrees. And first, let us pass over the Matheran of August 6, 1616, and Valencia of May 30 of the same year, which are in no way relevant to the matter; we find a declaration issued on August 17, 1630, in which the Sacred Congregation responded to the prelates of the ecclesiastical province of Milan: "Bishops can use oratories at any time, chapter end, on private matters, in VI." Furthermore, on September 22, 1640, when certain doubts were proposed: "1. Has the Decree of the Sacred Council of Trent on Observances and Life, etc., and the decree of His Holiness Paul V on private oratories, in any way derogated from the privilege granted to bishops in chapter end, on private matters, in VI? - 2. Do those who are interested, even if they are outsiders, when the bishop celebrates, or..."

[*Latin ed. p. 393*]

NICOTEREN and TROPIEN. 393 state that it is permissible to celebrate the Divine Office in such private chapels, both within the diocese and outside of it, in order to fulfill the Church's precept of attending Mass. The Sacred Congregation [de Propaganda Fide] decided to issue a decree stating: "I. The privilege granted to Bishops, as mentioned above in chapter VI, has not been revoked by the Sacred Congregation of Trent, nor by the decree of His Holiness Paul V concerning private chapels. II. All those interested may fulfill the precept of attending Mass on feast days." However, the matter is clarified by the decree issued by the Sacred Congregation of the Council on December 15, 1703, and subsequently confirmed by the approval of His Holiness Clement XIV. In this decree, the Most Eminent and Reverend Fathers observed that several abuses had occurred in this matter, particularly through the actions of certain Bishops, especially in the Kingdom of Naples and in the city of Naples itself; "Indeed, some Bishops even erect altars in the homes of lay people, even in foreign dioceses and outside their own residences, and there, through one or more of their chaplains, they consecrate the Body of Christ, etc." Wishing to prevent these abuses, they expressly declared: "To Bishops and other superiors, even if they possess the dignity of Cardinal, it is not permitted, under the pretext of a closed privilege within the body of the law, nor under any other title, in any way to erect an altar outside their own residence, even in their own diocese, much less in another diocese, even if the consent of the diocesan authorities were obtained, and to celebrate or have celebrated there the holy sacrifice of the Mass, etc." Finally, it is also worth mentioning what is read in Gardellini, Decret. Aut. C. SS. RR., vol. 3, pages 108 and following, edition third, which, although it concerns titular Bishops, may nevertheless be applicable in some way to Bishops residing outside the diocese: - there - "Since there is not entirely one and the same opinion among the authors regarding the privileges with which titular Bishops are endowed, especially when celebrating Mass, whether within their own or another diocese, in order to eliminate all doubts, the following questions were proposed to be

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discussed in the ordinary meeting of the Sacred Congregation on August 22, 1818, in Emis and Rome, namely: '1.° Whether a titular Bishop can, without a special decree..."

[*Latin ed. p. 394*]

394 NICOTEREN and TROPIEN. Regarding the altar: 1. May he erect the altar wherever he wishes, even if there already exists a chapel in his dwelling for the use of his relatives? 2. May he, in addition to his own Mass, have other Masses celebrated? 3. Will said Mass or Masses fulfill the precept, even for his relatives living with him, and for those who are not only dedicated to his service, but also serve his said relatives living with him? 4. May he celebrate and have celebrated Masses on customary days, except for those permitted by the Apostolic Indult? 5. If his relatives, who already enjoy the private oratory, have had a Mass celebrated, may the Bishop have another Mass celebrated in addition to his own?

The Most Holy Roman Pontiff judged that the following should be answered: To the first question: Affirmative. However, it should be consulted with the superiors regarding the extension of the privilege, namely that Bishops, in cases permitted by law, may, in the homes of relatives or strangers who enjoy the Indult of the oratory, celebrate or have celebrated a Mass in place of and in lieu of a portable altar, which is only permitted outside their own diocese by Boniface VIII, chapter "Quod." Regarding the sixth point, the provisions of the decree of Clement XI should be observed, with the exception of the remaining provisions, according to the subsequent declarations of the Most Holy Innocent XIII and the Council of Rome under Benedict XIII, chapter 15, number 3. To the second question: Negative. However, it should be consulted with the superiors regarding the extension of privileges concerning a single Mass, which Bishops are accustomed to hear after celebrating their own Mass. To the third question: Affirmative, only with regard to relatives who are necessary to the Bishop at the time. Negative, with regard to the others. To the fourth question: Affirmative. To the fifth question: This has already been provided for in the first and second questions. After the report was made (on August 25, 1818), His Holiness approved, and granted the extension of the privilege, as stated in the answers to the first and second questions, notwithstanding any contrary provisions.

After these points were clarified, the question was asked: What should be the answer to the proposed question?

RESOLUTION: The Sacred Congregation, having knowledge of the matter, on December 16, 1893, deemed it appropriate to respond: Let the Decree of the Holy Congregation of Rites of August 22, 1818, be given.

[*Latin ed. p. 395*]

NICOTEREN and TROPIEN, 395. For the convenience of the readers, the

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aforementioned decree is presented.

TO THE BISHIPS WITH TITULAR SEATS. Since there is not entirely one and the same opinion among the authors regarding the privileges with which titular bishops especially enjoy, particularly concerning the celebration of the Mass, whether it is celebrated within their own or another diocese; in order to eliminate any doubts, the following questions were proposed to be clarified in the ordinary meeting of the Sacred Congregation of Rites on August 22nd of the current year, and were sent to the Fathers in Rome:

I. Can a titular bishop, without a special rescript, erect an altar, wherever he may be, even if there is a chapel in his own dwelling for the convenience of his relatives?

II. Can he, besides his own Mass, celebrate other Masses?

III. Can the aforementioned Mass, or Masses, suffice for the fulfillment of the precept, even for those connected to him who live with him, and for those who are in the service of his household, even if they are not necessary for the actual celebration of the Mass, or are in the service of his relatives who live with him?

IV. Can he celebrate, or have Masses celebrated, on days otherwise forbidden by the Apostolic Indult?

V. In the case that his relatives, who already enjoy the privilege of a private oratory, have celebrated Mass, can the bishop celebrate another Mass, besides his own?

The Sacred Congregation of Rites, after hearing one of the Masters of the Apostolic Ceremonies, who expressed his opinion in writing, and after deliberation, and with the reference of the Most Reverend and Illustrious Cardinal Matthew, in place of the Most Eminent and Reverend Cardinal Julius Maria of Somalia, Prefect, and in the absence of the latter, decided to respond as follows:

To I: Affirmative. However, it is advisable to consult with the Most Holy [See of Rome] for an extension of the privilege, namely, that bishops, in cases permitted by law, in the homes of relatives or friends, or in other places where those who enjoy the Indult of a domestic oratory are present, may, and can, in the same place and in its stead, use a portable altar, which is permitted only outside their own diocese.

[*Latin ed. p. 396*]

396 NICOTEREN. AND TROPIEN. Boniface VIII, in chapter 6 of "Concerning the Privileges," preserves the form of the decree of the Most Holy Clement X, but, according to subsequent declarations of the Most Holy Innocent XIII, and of the Roman Council under Benedict XIII, in chapter 15, number 3. To the second question: Negatively; however, it is necessary to consult with the Most Holy [Pope] regarding the extension of the privi-

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leges concerning a single Mass which Bishops are accustomed to hear, celebrated by themselves. To the third question: Affirmatively, concerning only those who are necessary to the same Bishop; negatively, concerning others. To the fourth question: Affirmatively. To the fifth question: This has already been provided for in the first and second [questions]. On August 22, 1818. After a report was made concerning the aforementioned matters to Our Most Holy Father Pius VII, Pope, His Holiness approved the responses of the Sacred Congregation, confirmed them, and granted an extension of the privilege as in the response to the first and second of the proposed questions, notwithstanding anything to the contrary. On the 25th of the same month and year.

[*Latin ed. p. 397*]

397 CONGREGATION OF THE PASSION / OF OUR LORD JESUS CHRIST. DOUBTS REGARDING THE CELEBRATION OF THE MASS. December 16, 1893. Session. Decree concerning observance and avoidance, etc. SUMMARY OF THE MATTER. The Reverend Father John of Jesus, General Procurator of the Congregation of the Most Holy Cross and Passion of Our Lord Jesus Christ, in the month of September just past, presented a report concerning the celebration of the Mass, and included two doubts at the end. SYNOPTIC DISCUSSION. Urban VIII, in order that the obligations of the Masses might be diligently and faithfully fulfilled, granted this Sacred Congregation the power to issue decrees, which indeed proved effective in eliminating the inconveniences that were justly lamented. However, it is evident that the most holy objective has not been fully attained, because human malice easily finds ways to avoid fulfilling the law. This is known to have occurred when Innocent XII was compelled to promulgate a new Constitution, which begins with the words "Nuper," dated in the year 1697, in which, renewing the decrees of Urban VIII, he strengthened them with new provisions, in order to more easily achieve the desired end. In this Constitution, many things are said that pertain to Bishops and Rectors of Churches, urging them to fulfill their duty. Furthermore, it is strictly prescribed by the regulations that, after the celebration of the Masses, a signed and sworn attestation must be presented by all priests of the Province or Monastery in the Provincial Chapters. If this attestation is lacking, those who are absent may not have any active or passive voice in the aforementioned Chapters or congregations. Moreover, it is asserted in the petition presented to this Sacred Congregation that this attestation may have been omitted due to forgetfulness; and this omission opens the way for a new doubt. For, precisely because he was admitted to vote, he who omitted the attestation...

VOTE OF THE CONSULTOR.

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[*Latin ed. p. 398*]

398. If a station of the Congregation of the Passion of Our Lord Jesus Christ is omitted, the question arises whether a provincial chapter held outside of Italy and adjacent islands is valid or invalid.

FIRST RESOLUTION: The Nuper Constitution does not only apply to Italy and adjacent islands, but also to other regions. To proceed in the clearest manner possible, I preface my explanation with the statement that the Innocentian Constitution comprises two parts: one which imposes the exact and faithful fulfillment of the celebration of the Masses; the other, which addresses the reason and reveals the cause for which that fulfillment is either not achieved, or is sometimes unduly delayed. It emphasizes the former, and threatens transgressors with the strictest penalties; it removes the latter, prohibiting the erection of convents which cannot conveniently support at least twelve religious; and concerning those already erected, the number must be proportionate to the revenues of the monastery. Indeed, if we are speaking of this second part, it is certainly certain that the Decree of Urban VIII, confirmed by Innocent XII, extends to foreign nations, as declared by the same Congregation of the Council in response to the aforementioned doubt. But whether the first part, which concerns the celebration of the Masses, and which insists upon it in every way, even adding penalties to encourage those who are negligent to fulfill this obligation, also applies, we must examine, because the entire force of the doubt lies in this point. Truly, no one will deny that the Apostolic Constitution extends to all nations, when it speaks universally, and no word occurs in it that suggests a restriction, and which would lead us to conclude that it is limited solely to Italy and adjacent islands. For if we admit these limits, they are lacking in the very Constitution itself; otherwise, how would we demonstrate the intention of the Pope, who wished to restrict something to one place rather than another, when there are no restrictive words, and from that power which recognizes no limit, and extends to all places? This, moreover, is also evident from the custom of the Apostolic See, by which...

[*Latin ed. p. 399*]

CONGREGATIONIS PASSIONIS D. N. I. C. 399, in order to remove all doubt, is accustomed to noting specific places, which it intends to obligate, so that others may be tacitly exempted from the obligation imposed in that particular place. The Decrees of Urban VIII, renewed by Innocent XII, provide the most evident example of this. For in them, it is prescribed how many religious are to reside in a Convent or Monastery: a prescription which, at first, applied only to Italy and the adjacent Islands, but which, subsequently, by a new declaration, was extended to other nations. But this new declaration was not necessary, if in the previously issued decree, a universal expression had been used, rather than a restrictive one. Therefore, no restriction, and no limitation, is to be recognized in the Apostolic Constitu-

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tions, unless it is expressly stated: and consequently, any Constitution generally promulgated is presumed to apply to all, and to bind all, whenever that restriction is not read, but is desired. Furthermore, as it is clear to the reader, no expression occurs, and no word is found in the Constitution of Innocent, concerning the celebration of Masses, which would indicate that it applies only to Italy and the adjacent Islands, and that it exempts other nations. In this case, the following maxim of the law applies: the legislator expresses what he wishes, and does not express what he does not wish. If he had wished it, certainly a restrictive word would have appeared, which is not the case. Therefore, if it speaks universally, he intended to obligate all, and to exempt no one. To the argument presented, it may be added, and it seems to me to be of some strength, that the Decree of Urban VIII, and the Constitution Nuper, which renews that decree and strengthens it anew, are of such importance, that they should constantly be brought to the attention of Bishops: for there is nothing in them that is trivial, and which could be overlooked as being of no use. (Lucidi De Visit. SS. L. 1. p. 394). Indeed, they are intended to remove a very serious inconvenience, which no one can deny, and both decrees confess this in the most explicit words. For neither Pope would have issued decrees concerning the celebration of Masses, imposing very severe penalties on those who neglect to fulfill this obligation, if the matter were of little importance. Furthermore, the inconvenience which both Popes sought to remedy, did it affect only Italy and the adjacent Islands?

[*Latin ed. p. 400*]

400. Were the decrees of the Congregation of the Passion of Our Lord Jesus Christ intended to apply only to certain regions, so that foreign nations would be exempt and considered immune from this defect? However, I do not believe it is far from the truth to assert that both Popes lamented that all nations, in one way or another, had been affected by this problem. Therefore, if anyone were to claim that the Innocentian Constitution was limited only to Italy and the adjacent regions of Insulas, it would inevitably follow that the Pope had not made sufficient efforts to fulfill this obligation with the diligence, care, and thoroughness required to address the widespread problem. Meanwhile, this fulfillment was of the greatest importance to the Pope, and he considered it carefully in his Constitution. Why would he have insisted so strongly on the fulfillment of this obligation, renewing the decrees of his predecessor, if he had left open a path for its neglect, and indeed, with scandal to the Christian people? Therefore, in order to avoid the appearance of having labored in vain, and recalling the very strict obligation to eliminate this defect, which was so widespread and prevalent, the wise Pope took care to promulgate a Constitution that does not only obligate Italy and the adjacent regions of Insulas, but also other nations. The defect that Innocent lamented in his Constitution persisted for a long

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time, and the decrees of the two Popes were not universally enforced, as evidenced by the schema presented to the theological consultants of the Vatican Council, the preamble of which states: "Although Urban VIII and Innocent XII issued many decrees concerning the religious celebration of the Mass, we are compelled to lament that the best intentions of these decrees have not generally led to the desired outcome, and that therefore the sacred duties of the Mass are not everywhere fulfilled with the faith and diligence that are due." And in the notes, it is written: "Because, however, the salutary provisions contained in these decrees are not everywhere diligently observed, there is a need to issue a decree that is suitable to this evil, and that, as far as possible, provides a remedy." The decrees of both Popes are considered here as universally binding. However, in the schema, no word is found that indicates that the cited decrees are to be understood as universally binding.

[*Latin ed. p. 401*]

CONGREGATIONIS PASSIONIS D. N. I. C. 401 states that the obligation is to be introduced in particular places, and is not to be extended everywhere. Indeed, there is no mention of granting an extension to either Constitution, because both are considered to have been promulgated everywhere, and are universally binding. If it is deemed necessary and opportune to promote the conciliar Decree, it should not be added to the law already enacted, but rather to the customs of particular places that have not been promulgated, and which are not binding, but so that the force of the same law, inducing an obligation, might shine forth more brightly, and there would be no further place for hesitation, nor any opportunity to evade the binding law with customary delays. Generally, this confirms that the Innocentian Constitution was extended in all places. Approaching now the matter at hand, we must consider the Congregation, which gave rise to this doubt. I do not doubt that the Innocentian Bull is observed everywhere by the Congregation, as is seen in all Provinces, even outside of Italy, by other religious Orders. Indeed, uniformity is most fitting for a religious Order; and I cannot assert that the Congregation, which is the most observant, and the most faithful guardian of the laws of the Holy See, has neglected this. If the Innocentian Bull is diligently enforced by other religious Orders, it is unjust to judge the most observant Congregation to be unconcerned with it. Moreover, I infer this not from malice, but from fact, namely, from the doubt proposed by the Reverend General Procurator, which suggests a custom introduced there, and the faithful observance of the Innocentian Bull, which is equivalent to promulgation, even if no formal promulgation has been made. But someone might say, will this practice have the force of law? Or rather, will the Constitution itself be considered as promulgated? There is no doubt about it. And it should not be surprising, nor should it seem new, whenever a custom is introduced

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that is in accordance with the law, or conforms to the law. For then the custom applies the law, and everyone readily concedes that it has the force of law, as if the law had been extended in the place where it is observed. Everyone knows that the head of Tametsi induced an obligation where it was promulgated, according to the time established by the Council of Trent; but if, by some Act, Tom. XXVI. fol. COCVII. 26.

[*Latin ed. p. 402*]

402 The CONGREGATION OF THE PASSION OF OUR LORD JESUS CHRIST, in matters customarily observed, shall be held to be as having been promulgated, as the Congregation of the Council has most frequently determined and decreed. Therefore, what prevents that disposition from being verified in the case proposed, especially since the Council has added so many stipulations so that even if a head were to incur an obligation, which is not necessary for other laws? Thus, either the Innocentian Constitution is among the laws that govern the aforementioned pious Congregation, or at least it has always been practically observed.

SECOND RESOLUTION: A Provincial Chapter, having been decided upon by a vote cast by one who was deprived of both active and passive voice, not absolutely but based on circumstances, is to be determined as valid or invalid. If the aforementioned Innocentian Constitution also applies to foreign nations, it must now be considered whether a Provincial Chapter, in which a certain person participated who omitted to present testimony of having celebrated the Masses, even if by forgetfulness, was valid or invalid. Indeed, the praised Constitution deprives all those who do not present said testimony of both active and passive voice, and I believe that this omission occurs in any way; whether by forgetfulness, or by bad faith, or maliciously. For in it is written: "Whoever the superiors local... shall not be able to have the active or passive voice in the aforementioned chapters, or congregations at all." Therefore, they are deprived, first of all, by the very law, of both voices, and are declared incapable, so that they cannot either cast a vote or be elected. For the voice, in its entirety, has the same meaning as another, by the very law, by the very fact, without any declaration. For the law of penalties, which is usually expressed and declared through certain particles, is expressed in the same way by adverbs, namely, "entirely," "completely," "immediately." (Donati Laynensis, *Rerum Reg. praxis resolutoria*, Tract. I, qu. 33, no. 4). Therefore, they are deprived of both voices by the clearest of words, and no means of escape remains. Nor, secondly, does forgetfulness excuse them from this deprivation, both because this exception is not found in the Constitution, and where the law does not distinguish, neither should we distinguish; and because...

[*Latin ed. p. 403*]

CONGREGATIONIS PASSIONIS D. N. I. C. 403: Hoc capitulum tractat

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de inhabilitate et privatione contracta ob conditionem quae executioni non fuerat mandata, et inhabilitas atque privatio singulari modo suum effectum sortitur, seu melius, id sufficit si requisita conditio desideretur. Quae si etiam sine culpa omittitur, privatio contrahitur, sicut irregularitas verificari decernitur, nulli occurrente delicto, et nulla culpa ex parte subiecti, quando simplex et unus defectus occurrit. Consequenter, in proposito dubio, ille erat inhabilis ad suffragium ferendum, quia quovis modo illa omissio evenit, sive ex dolo, sive ex oblivione, certum est conditionem non fuisse impletam, et ex hoc defectu etiam inculpabili, ille privabatur voce activa atque passiva. Neque tertius ab hac privatione utriusque vocis eximebatur, eo quod omissa fuerit declaratoria sententia, cum nemine reclamante, aut contradicente, ad Provincialis electionem suffragium dederit, ac si habilis esset. Quamvis enim Doctores magna contentione decertent, an necessaria sit sententia criminis declaratoria, quorum alii essentialiter requisitam affirmant, alii negant, simplex distinctio utramque sententiam veram et falsam declarat sub diverso respectu. Alia enim est privatio iuris iam acquisiti, alia inhabilitas simplex. Prima ius adimit iam acquisitum atque possessum, secunda removet ab exercitio iuris. Unde melioris notae doctores edicunt ordinarie loquendo, legem quae poenam ipso iure, ipso facto infligit, suum sortiri effectum, statim ac sententia criminis declaratoria manifestatur, quia nemo licet reus sit, tenetur poenam sibi infligere quamvis levissimam. Excipitur tamen nisi eiusmodi lex consistat in privatione ita ut faciat aliquem inhabilem. Ita Leurenius p. I, q. 389, num. 3. Sententia ergo declaratoria aut criminis aut omissionis necessaria omnino est et essentialiter requisita cum agitur de privatione iuris iam acquisiti, non de simplici inhabilitate. Idque fidenter affirmo ratione principii iam positi, quia ad inhabilitatem contrahendam non occurrit incommodum, quod ab omnibus reprobatur tamquam absurdum, et iuri.

[*Latin ed. p. 404*]

404. The nature of the CONGREGATION OF THE PASSION OF OUR LORD JESUS CHRIST is such that it repels those who would seek to inflict punishment upon themselves, yet it is sufficient either that the act be invalid, or that a condition be omitted. However, since the privation of the active and passive voice proceeds in entirely different ways, and the resulting incapacity is varied, it follows that the exercise of the active voice, performed by one who is incapacitated, does not invalidate the entire act, nor does it render it invalid in every case, which otherwise might be valid, as we shall soon affirm. Conversely, something must be said about one who suffers from a passive incapacity, and who is declared by law to be ineligible for the dignity. For he who is entirely incapacitated by a passive incapacity can never be elected, just as a material that is declared unsuitable cannot be made suitable. From these considerations, it is easily determined whether that chapter of the Provincial regulations was valid or invalid. A

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distinction must be made here. Either the one who was deprived of the active and passive voice was elected as Provincial, or he merely gave his vote, and participated in the election of another. If the former, then, according to the principles noted above, the election will be entirely invalid, and all acts resulting from that election will be declared invalid, just as all acts are declared invalid due to the lack of the attestation required by the Bull of Innocent, as Pitoni teaches in Discip. XCIV, no. 27. If, however, the latter, that is, if he was not elected, but participated in the election of another by giving his vote, then I use the prudent observation of Pitoni in Discept. CV, no. 49. The election will then be annulled because of the uncertainty as to whether the vote of the one who is ineligible was given for the one elected by a majority, or rather for another elected by a minority, and not if he had been elected by a sufficient number of valid votes. However, even if the votes were deposited in secret, this can certainly be determined, as Pitoni notes there. For if someone was elected with one vote exceeding the majority, for example, if he received twelve votes out of twenty, it is clear that even with one vote removed, he would still have been elected, because the vote exceeding the majority would have been superfluous. Conversely, if the number of valid votes was not sufficient for the election, and the votes were divided—

[*Latin ed. p. 405*]

CONGREGATION OF THE PASSION OF OUR LORD JESUS CHRIST. Number 405: There arose a doubt whether the elected [candidate] had obtained the aforementioned vote from more than half of the legitimate electors, or from an ineligible [person]. In the first case, the ineligibility of one person cannot invalidate the entire process, because the useful is not vitiated by the useless. In the second case, the vote of the person whose legitimacy is doubted contaminates the entire election, rendering it null, and therefore it must either be renewed, or corrected by legitimate authority. Thus, I believe it is proper to respond to the person raising the doubt concerning the validity of the Provincial Chapter.

With these considerations in mind, the following questions were proposed:

Question I: Do the Decrees concerning the celebration of Masses, and the prohibition of their reduction or alteration, issued by the Holy Congregation of the Sacred Roman Church, of the Cardinals of the Council of Trent, and inserted by Pope Innocent XII in his Constitution of December 23, 1697, which begins "Nuper," obligate, with the penalties contained therein, not only in Italy and the adjacent islands, but also in other regions, in the case (1)?

(1) From said Constitution, the following is relevant: I. Firstly, it strictly prohibits and forbids that bishops in diocesan synods, or generals in general chapters, or in any other way, reduce any burdens of celebrating

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Masses, or those imposed after the same Council, or at the very foundation [of a religious institute], but that for all such reductions, modifications, or alterations, recourse must be made to the Apostolic See, which, after carefully considering the matter, will decide what it judges to be more pleasing to the Lord; otherwise, any such reductions, modifications, or alterations, if they should occur contrary to the form of this prohibition, are declared entirely null and void.

II. Secondly, where stipends, however incongruous and meager, have been given or will be given in the future to priests, churches, chapters, colleges, hospitals, societies, monasteries, convents, congregations, pious houses, and places of any kind, both secular and regular, for the celebration of several Masses of the same quality, the Holy Congregation, under "the sanction of divine judgment," commands and orders that absolutely as many Masses as are prescribed according to the amount of the assigned alms be celebrated, so that otherwise those to whom it pertains will not fulfill their obligation; rather, they will sin gravely, and are obligated to make restitution.

III. Furthermore, in order that this may be observed more accurately, the same Holy Congregation, with the same authority, revokes all privileges and indulgences granted to any persons, churches, and pious places, secular and regular, of any order, congregation, and institute, whatever the reason for their granting, by which they are permitted to celebrate certain Masses or anniversaries.

[*Latin ed. p. 406*]

406 CONGREGATIONIS PASSIONIS D. N. I. C. II. Whether a legitimately celebrated Provincial Chapter outside of Italy should be considered valid, in which a certain local Superior, having actively and passively participated, had, through mere forgetfulness, as he himself stated, not brought with him the attestation signed and sworn by all the priests of his jurisdiction, regarding the complete fulfillment of the obligations of Masses (in case 1). RESOLUTION. The Sacred Congregation, having knowledge of the matter on December 16, 1893, decided to respond: To I. Affirmative. To II. For the sake of caution, for the granting of absolution. FROM WHICH IT IS UNDERSTOOD: Everywhere, the decrees regarding the celebration of Masses, and the prohibition of moderating or reducing them, etc., issued by the Sacred Congregation, and inserted by Innocent XII in his recent Constitution concerning the celebration, or certain collections or prayers, for the fulfillment of the obligations of several Masses in the future, must be observed. IV. And likewise, desiring to remove all reprehensible gain from the Church, it prohibits the priest who has accepted the celebration of a Mass with a certain alms, from assigning the same Mass to another, retaining a part of that same alms for himself. (1) Therefore, the aforementioned superiors must diligently and promptly,

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even through investigation, admonish all and each who transgress, and furthermore, all and each local superiors must present, in provincial chapters or congregations, the attestation or declaration signed and sworn by all the priests present, from the monastery or any regular house, that all and each, both perpetual and manual, obligations of Masses have been completely and integrally fulfilled, within the limits and according to the tenor of the present decrees, during the time of their administration; or, if there is any slight deficiency in fulfillment, that such residual obligations of Masses can also be clearly fulfilled within a short time, with the addition and complete fulfillment of the aforementioned, on the condition that, before the presentation of the aforementioned attestation, no local superiors whatsoever shall be able to exercise an active or passive vote in the aforementioned chapters or congregations.

[*Latin ed. p. 407*]

407 BARCELONA. NULLITY OF MARRIAGE. May 6th and December 16th, 1893. Session 21, chapter 5, concerning reforms in marriage. Emmanuel Dorda y Olivella, originally from Barcelona, who, in the year 1881, was engaged in studies, had for more than four years resided in the house of Rosendo de Puiguriguer y Par. This last-mentioned person had a daughter named Carmela, and the young man became so enamored of her that, through an illicit relationship, he procreated three illegitimate children with her; two of these sons died before their father, while the daughter still survives. Meanwhile, Emmanuel fell seriously ill, and the parish priest of his parish, Joseph Gatell, was called to administer the sacraments to the sick man. The priest found the sick man very eager to receive the sacraments and to contract marriage, in order to provide for the good reputation and honor of Carmela and her children. However, due to the imminent danger of death, and because there was not enough time to complete the usual formalities and to obtain written testimonies from witnesses, the priest, noting that the couple possessed all the necessary requirements for contracting marriage and that both belonged to his parish; furthermore, the woman enjoyed the consent of her father, while the man could not have the consent of his father, since his father was already deceased and his mother was absent; and having been further assured, especially by the bride's father, that the couple were not related by any degree of consanguinity, he celebrated the marriage before witnesses. After administering the sacraments of penance, the Eucharist, and extreme unction to the dying man, the priest immediately proceeded to describe the event and sent it to the authorities for approval. However, being astonished by the fact that the surname of the bride's father and the surname of the bride's maternal grandfather were the same, he was compelled to inquire again whether there was any consanguinity between the couple, but he always received the answer that they were not related

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by any degree in which marriages are prohibited. SUMMARY OF THE FACTS.

[*Latin ed. p. 408*]

408 BARCELONA. The parish priest Gatell declared, that there would be no marriage if there existed consanguinity between the betrothed, unless the general vicar could be immediately petitioned for a dispensation, in order to avoid nullity. Then, a genealogical tree of the Puiguriguer family was presented to him, and from its examination, and from the accounts given to him at that time, due to the lack of documents concerning the family of the contracting party, it became clear to the parish priest that the paternal grandfather of the groom and the paternal grandfather of the bride were cousins, and therefore the contracting parties were related by consanguinity in the fourth degree in the collateral line. Without delay, the parish priest went to the general vicar with the father of the bride to request a dispensation, and having obtained it, he returned again to the sick man, so that he might be able to validate the marriage, but he found the man so weakened and near death, that he was not even able to utter a word to renew his consent. Then, the parish priest repeatedly tried to call the man, while he was in a lethargic state, to understand the necessity of giving his consent; and although I managed to make the patient turn his eyes towards me at times, so that it could be judged that he understood the matter, I did not consider that this was sufficient. I also tried to make him understand that it was enough if he extended his hand, since he could not speak. Then, my assistant called him with a louder voice; but he elicited nothing other than a sigh; from which, perhaps, it could be inferred that he had given his consent in this way, or that he had only emitted a convulsive movement, born of the very grave condition of the sick man, who died after three or four hours. Furthermore, after the death of Emmanuel, new investigations were carried out, and it was discovered that his paternal grandfather had been the brother of the paternal grandmother of Carmela, and therefore the impediment was indeed the fourth degree of consanguinity, but in the unequal line. The general vicar of Barcelona, being asked whether, in granting the dispensation to the parish priest Gatell, he had intended to grant it exclusively for the fourth degree, and what his intention generally was in granting dispensations in such cases, replied: that he understood that he was dispensing in the fourth degree of consanguinity, and nothing else.

[*Latin ed. p. 409*]

BARCELONA. In the year 1881, the mother of the deceased, who had always opposed the marriage during his lifetime and had prevented it, did not relent even after his death, and on the twelfth day of July of that same year, she initiated a legal proceeding in the tribunal of the episco-

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pal curia of Barcelona, seeking to declare the marriage contracted at the point of death between Emmanuel Dorda and Carmela Puiguriguer as invalid. The discussion of this matter was held in the Barcelona curia, after duly questioning the parties involved and hearing numerous witnesses on both sides. On June 21, 1883, a judgment was rendered which declared the aforementioned marriage to be null. Carmela and her defender appealed this judgment to the metropolitan tribunal of Tarragona, which on December 24, 1885, simply confirmed the appealed judgment. The case was then brought before the Apostolic Nunciature tribunal of Madrid for a third instance, and, as is customary, the records of the Rota were presented. The auditors of the first turn, on June 27, 1887, revoked the judgments of the curias of Barcelona and Tarragona, and declared the marriage to be valid. This judgment was again confirmed in the second turn, and with a new appeal interposed, the turn of five auditors, on July 7, 1891, approved the two judgments of the Rota, and declared their own judgment to be binding. These three judgments issued by the Rota were given with unanimous consent, except for the last one, in which only one of the five auditors dissented, although he had already voted in favor of the validity of the marriage in the decision of the first turn. Rosa Olivella did not submit, but having made an appeal against these judgments to the Sacred Congregation, a written communication was sent on November 4, 1891, for information and for the Apostolic Nuncio's vote, who reported that he considered the appeal not to be admissible. Synopsis of the Dispute. He who undertook to defend the rights of the plaintiff, in the beginning of his plea, recalled the examination in which the question of the good faith of the contracting parties was raised, a matter which the latest Madrid judgment had admitted twice, namely: 1. Concerning the INVALIDITY OF THE MARRIAGE.

[*Latin ed. p. 410*]

410 BARCINONEN. He argued that, with regard to reconciling oneself with God through the dispositions of a dying person, and 2. considering the responses of Carmela and her parents, the existence of a canonical impediment was denied, which could easily have been dispensed at that time. Furthermore, he stated that this could be indirectly answered by the oracle of Divine Wisdom: "The young man, according to his way, even when he is old, will not depart from it," meaning that, just as Emmanuel's life and manner of acting do not indicate a right disposition of the soul, so too, the past actions of Emmanuel do not demonstrate a true repentance. However, he also believes that, even after repentance, Carmela did not truly ignore Emmanuel's condition and the degree of consanguinity. Moreover, he notes that a direct response was provided by the testimonies of witnesses, which exclude any claim of ignorance of the consanguinity and of good faith. Considering these testimonies of the witnesses, he argues that they even seem to contradict the very appearance of good faith.

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Furthermore, the advocate recalls that Carmela herself, when questioned, responded that she knew that Dordam was remotely connected to her father through a degree of consanguinity; a fact that she herself confirmed. Indeed, such responses seem to have been carefully crafted and given to the advocate in order to excuse his own malice. If it is reasoned that, since it is established that none of those involved were ever ignorant of the fact that the parties were connected to each other by a degree of consanguinity, it cannot be maintained that the degree of consanguinity itself escaped their minds, especially since we are not dealing with ignorant people, but with citizens to whom no means of knowledge of their consanguinity were lacking. Then, proceeding to the second part of his argument, the advocate observes that two questions are presented to him, namely: 1. whether the Bishop or his duly delegated general vicar has the power, given the particular circumstances, to dispense from the impediment of the fourth degree, or rather, whether he can validly dispense even from the impediment of the third degree with the fourth degree of consanguinity, and 2. whether the dispensation in question was truly granted in this case by the general vicar. Regarding the first point, which is a matter of law, he therefore briefly...

[*Latin ed. p. 411*]

BARCINONEN. 411 At this point, he observed that exceptions must be interpreted strictly and rigorously, and therefore, the power to grant a dispensation from the fourth degree to a higher degree (which would, in fact, add to the law both in word and in meaning, and would certainly be an obstacle) could not be extended to the detriment of another. Regarding the factual question, he argued that no dispensation had been granted, and that this could be clearly deduced from the very account given by the parish priest. From this account, it was clearly evident, he maintained, that the parish priest had requested a dispensation not for a third degree of consanguinity with the fourth, but only for the fourth degree of consanguinity itself, and that the Vicar General had granted a dispensation only from this impediment. Furthermore, he considered it absurd to claim that the dispensation from the impediment of the fourth degree was based on the judgment of the Rota Matritensis, as this would imply a dispensation of the immediately preceding degree. For, he argued, in law, such a judgment was entirely divorced from the truth and was absurd, because otherwise, for example, a dispensation granted to cousins would be valid for a marriage between a grandfather and a granddaughter, which would certainly be contrary to law. Moreover, he added that this question was irrelevant, since the matter was one exclusively of fact, which should be determined solely from the words of the Vicar General. Finally, addressing a more serious point of the case, he argued that the marriage was null because there was no valid consent. He again avoided the legal question, since it is well known that a contract cannot exist without consent. He recalled, however,

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that consent for marriage must be manifested by words in the present tense, which, if the parties are mute or infirm, can be done in writing, by signs, or even by a nod, provided that all suspicion of ambiguity is absent. For if any legitimate doubt can arise, the will of the contracting party can certainly be presumed, but not manifested. And since the manifestation of consent in marriage is essential, it cannot be supplemented by presumptions or by judgments, therefore, the manifestation of consent, even by signs or by a nod, is valid.

[*Latin ed. p. 412*]

412 BARCINONEN. Debet voluntas contrahendi, univoce et non aequivoce, clare, certe et explanate significari. His praemissis, magni momenti fuisse adnotat in re tam gravi, super consensus manifestationem ita inquirere, ut de manifestata voluntate praestitoque consensu tuto iudicaretur. At parochus facta enarrans, ceu superius relatum fuit, de manifestatione consensus ex parte Emmanuelis et ipse haeret anceps. Haec vero cum ita sint, contendit orator, duplici ex capite nullitatem matrimonii evinci: altero scilicet quia manifestatio voluntatis modo certo, affirmativo, non dubio et non aequivoco amplius non emersit, altero autem quia morientis voluntas in extremo suo agone certantis et iam morte correpturi libera libereque et scienter determinata esse non potuit. Ad primum quod spectat, censet frustra ex praecedenti consensu suspirium illud, de quo superius est sermo, pro nova manifestatione consensus esse retinendum. Etenim cum consanguinitatis impedimentum ignoratum non fuerit ab Emmanuele, qui hoc haud obstante absque ulla petita venia, matrimonium inivit, cumque parochus in petenda dispensatione inaudito contrahente omnia proprio marte egerit, inferendum patronus contendit Emmanuelem Dorda nunquam voluisse cum Carmela de Puiguriguer matrimonium valide consentire. Suspirium igitur potius denotasse putat turbatam conscientiam, nullamque, attentis circumstantiis, praesumptionem consensus inducere. Quapropter, concludit: quoniam voluntas praesumpta non est amplius manifesta, manifestatio autem consensus explicite et non aequivoce coram parocho et duobus testibus facta de essentia est, restat quod ex defectu manifestationis consensus, matrimonium, de quo agitur absolute nullum iudicandum sit. Demum quoad secundum censet patronus, Emmanuelem in extremis constitutum in iis adiunctis versari, ut sponte ac scienter voluntatem suam pandere minime potuisset. Et ideo retinendum videtur quod si aliquod consensus signum a monente fuerit emissum, illud haud tale fuisse quod validum redderet matrimonium.

[*Latin ed. p. 413*]

BARCINONA. 413. Furthermore, it must be observed, above all, that good faith, as the impediment in question is concerned, ought to be admitted not only in the contracting parties, but also in Carmela's parents.

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For, indeed, no one could be a more competent witness of Emmanuel's good faith than the parish priest, Gatell, who received the dying man's confession and administered the sacraments to him, and who can testify to this. Moreover, Emmanuel was by no means compelled by Carmela's parents to enter into marriage, but only by the most equitable persuasions of his parish priest, who desired to reconcile him with God. Furthermore, as Rose's patron pointed out, since the matter concerns not crude individuals, it seems difficult to admit that they were ignorant of the fact that a marriage between consanguineous persons, without dispensation, is void, and therefore that Emmanuel, in order to deceive the parish priest and, at the expense of his own soul, concealed the existence of this impediment in his final agony. This hypothesis, indeed, is not in accordance with the truth, given Emmanuel's manner of living, so that the saying "as is the life, so is the end" can be applied to him. For He who came into the world to save the world through Himself, and who, hanging from the cross, promised paradise to the thief, could best have turned Emmanuel's heart to Himself at the last moment, and, indeed, it must be held that He truly did so, according to the parish priest's account. Moreover, it is incomprehensible how Carmela, to whom it most concerned to protect her honor, and to secure the legitimacy of the children born to her by Emmanuel, and their inheritance, could have knowingly entered into a marriage that was null, and thus willingly expose herself to future problems, which, given Rose's character, she could have foreseen with the greatest clarity. To these considerations are added the testimonies of several witnesses, which seem to completely confirm the matter. Of these, it will suffice to mention a few. In addition to those that Carmela and her parents have professed, asserting that they indeed knew that the contracting parties were related by consanguinity in a very distant degree, but that they believed that the consanguinity in the degree that prohibits marriage no longer existed, there are the testimonies of four witnesses, given before the judge, IN SUPPORT OF THE VALIDITY OF THE MARRIAGE.

[*Latin ed. p. 414*]

414 BARCINONEN. The reasoning which declares that the ignorance of the impediment on the part of Emmanuel, Carmela, and their parents should be considered certain. Regarding another point of contention, namely, whether a dispensation was truly necessary to validly contract marriage in this case, it is best to first recall that the common opinion of Doctors is that a dispensation can be obtained for a more distant degree of consanguinity, while omitting the closer one. Sánchez I. 8, d. 24, n. 28; Pont. I. 8, o. 17, n. 26; S. Alphonsus Theol. Moral. I. 6, n. 1136; and this is inferred from the Motu proprio of St. Pius V, "Sanctissimus," of August 26, 1566, in which it was stated that a dispensation obtained without mentioning a closer degree, namely, if the betrothed are connected in the fourth and

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third degrees, cannot be considered to be vitiated by fraud or deception, provided that declaratory letters are subsequently obtained regarding the closer degree. — ibid. — "These declaratory letters are issued not because a closer degree obstructs the marriage... but to remove scandals from the people, who are ignorant of the law, and who believe that a dispensation was not validly granted based solely on the more distant degree, indeed, they believe that it is more necessary based on the closer degree, since, according to their understanding, a greater degree of kinship seems to be involved." Therefore, contrary to some authors who maintained that marriage in these cases was null if declaratory letters were not present, Benedict XIV declared in the Constitution "Etsi pastoralis," of September 30, 1755, that marriage is indeed illicit, but not invalid, provided that the kinship is not of the first degree of consanguinity or affinity, in which St. Pius V protested that he would not dispense. Therefore, the Sacred Congregation also held that a marriage contracted between the Prince Saphiebam and Constantia Radzivil, with a prior dispensation from the Supreme Pontiff regarding the fourth degree of consanguinity, was not null, although the contracting parties were connected by the third and fourth degrees, in Luceorien, on Nullities of Marriage, March 28, 1722. It would seem that nothing was done if the intention of the Vicar General was only to dispense from the fourth degree of consanguinity.

[*Latin ed. p. 415*]

BARCELONA. 415 degrees; for, besides the fact that the objection mentioned above might appear superfluous, it must be said that the delegate fully intended to conform to the laws and practices in force in the Church of Rome. Furthermore, since the existence of bad faith in Emmanuele has not been proven, the Rota holds that the marriage is considered valid, possessing the effects of a true marriage in the external forum. Finally, contrary to those who claim that the marriage in question is invalid due to a lack of consent, it must first be remembered what the parish priest Gattel wrote to the Vicar General on March 15, 1881, namely: that if any doubt remained concerning the expressions of the second marriage, concerning the first, namely, when the sick person was fully using the faculties of his mind, he noted no hesitation, either when giving his consent, or when dealing with him alone, in order to fulfill my ministry. Moreover, since doubt is the opposite of consent, when the parish priest questioned the dying man for the first time, it would not only be permissible to argue, perhaps presumptuously, that Emmanuele consented to the marriage a second time, but also that all his actions, that is, the movements of his eyes, the movements of his hands, and his sighs, seemed to be true and sufficient expressions of consent. But even if it is granted that, due to the severity of the illness, Emmanuele may not have been able to freely and knowingly express any will a second time, it would not necessarily follow that the marriage is null,

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and perhaps, with some sense of truth, it could be affirmed. For since the dying man was unaware of the existence of the impediment, the validity of the marriage could be defended, according to the opinion of Gury, which he considers probable, according to which the ignorant party does not necessarily need to renew his consent for a valid restoration of the marriage. Gury, Comp. Theol. Mor., vol. II, De Matrim, no. 896. — there — « The reason is because the prior consent, although lacking its effect due to an impediment imposed by positive law, was nevertheless valid in the eyes of natural law, since it was given with regard to a person who was, in the eyes of natural law, capable of contracting marriage; therefore, once the impediment is removed, the prior consent is sufficient, which virtually continues in effect. »

[*Latin ed. p. 416*]

416 BARCINONA. OBSERVATIONS OF THE DEFENDER OF MARRIAGE FROM THE OFFICE. Before I address the objections raised against the validity of this marriage, it will not be irrelevant to note that any marriage, in matters concerning its value, can be considered in three respects, or rather, in three stages: namely, marriage being contracted, marriage in effect, and marriage terminated by the death of one or both spouses. The arguments necessary for determining its value are different in these three stages of marriage: greater arguments are required when it is a question of contracting marriage, lesser arguments when it is a question of a marriage already contracted, and the least arguments when the matter concerns a marriage dissolved by the death of one or both spouses. Indeed, when it happens that there is doubt as to whether a certain marriage, which is being contracted, can validly be brought into effect, he who must resolve the matter places the sanctity of the sacrament, the common good, and the good of the offspring, all of which are harmed by invalid marriages, on one side of the scales; while on the other side, he has only the hoped-for good of two individuals. Hence, when such cases arise, in order that the value may not be placed in doubt, marriage is not admitted at all. For it is said by all: "In doubt, the safer part is to be chosen." Conversely, when it is disputed whether a marriage already contracted should be dissolved, the private good of the spouses who are impugning the marriage must give way to the sanctity of the sacrament, the common good, and the good of the offspring conceived, all of which suffer detriment from the dissolution of the marriage. "Hence," it follows, "that the opinion of a single doctor supporting marriage should be preferred over the opinions of many who impugn it, unless they are clearly supported by the text." Indeed, Innocent III states in chapter 47 of *De lestib. et attesi*: "It is more tolerable to allow some to remain coupled against the laws of men, than to separate those who are legitimately joined, against the laws of God." When, however, the

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matter in dispute concerns a marriage,

[*Latin ed. p. 417*]

BARCELONA. 417. The death of either spouse, or of one of the spouses, is not only sufficient, according to the opinion of some doctors who defend marriage, but even slight and conjectural proofs are sufficient to proclaim the validity of the marriage. In such cases, as is evident from the present situation, the matter is not about the marriage itself, but about the consequences of the marriage; it is, as in our case, about the surviving spouse, who, having for FOUR YEARS fulfilled all the duties of a wife, claims the rights and honors of a wife; it is about a girl, who, according to the law of nature, by virtue of her origin from Emmanuel Éorda, has the right to his name, all the honors, and all the goods of his fortune, namely: "she is his heir." The mother of Emmanuel, Rosa, resists the wife and daughter, and, coveting the wealth of her son, claims that he has impiously violated the rights of nature, and that there is a place for a SAD SUCCESSION. Therefore, the Sacred Roman Rota teaches in decision 668, no. 21, part 19, volume 2, recently, and elsewhere: "When the truth and validity of a marriage are involved, solely for the purpose of establishing the legitimacy of the offspring and succession, LIGHTER PROOF IS SUFFICIENT." Although the arguments by which the truth and validity of the marriage between Carmela and Emmanuel on March 11, 1881, are demonstrated, do not belong to the category of lighter proofs, but to the category of irrefutable proofs. Indeed, the parish priest of the betrothed, Ildephonsus Gatell, testifies to this fact. The mother of Emmanuel, Rosa Olivella, wastes her oil and effort trying to invalidate the testimony of the priests, claiming that Carmela and Emmanuel did not celebrate a marriage, but intended to put on a comedy. If one were to listen to Rosa, she would say that Emmanuel, Carmela, and Carmelae's parents were well aware of the impediment of consanguinity in the third and fourth collateral lines, which would prevent the present marriage. First of all, Rosa claims that her son Emmanuel acted in bad faith, because he called a certain D. Rosendum Puriguriguer "his relative" in a written statement presented to the magistrate. But to call someone "his relative" is not the same as acknowledging kinship within the fourth degree: Acta, Volume XXVI, section CCCVII, 27.

[*Latin ed. p. 418*]

418 BARCINONEN. Even when distant relatives, especially when we are in need of help and favor, it is customary to inquire about them. And indeed, if Emmanuel had known of an impediment, his mother, Rosa Olivella, could certainly not have remained ignorant of it. A worried concern shone in her eyes, and Rosa Olivella, who abhorred nothing more than her son's marriage to Carmela de Puiguriguer, urgently pressed Emmanuel's mother, so that she might allow Carmela to become her

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daughter-in-law, objecting to the impediment of consanguinity, if she herself had even the slightest suspicion of this matter. We must examine the arguments that Rosa Olivella presented to demonstrate her bad faith, as well as that of her son, Emmanuel, and even of the bride, Carmela, and her parents. To this end, she presented five witnesses, each of whom responded with precisely the same words. But how can one give an account of one's testimony, or present the reason for one's knowledge, which witnesses are required to provide, so that what they declare in court may be considered valid? Furthermore, these witnesses are, in my opinion, quite unreliable, because they were produced too late. See Lauren. *Form. ecclesiast.* lib. 2, q. 663, no. 1: — there — « It is a common and universally accepted rule that, once testimonies have been duly published, it is not permissible to produce the same or other witnesses again in the same or another instance. The reason for this is both the fear of SUBORNATION, and also because, by the publication of testimonies, there is a declaration against the further production of witnesses, either expressly (as is usually done after an examination, during the judge's questioning) or at least implicitly, tacitly consenting to the publication of the testimonies. However, this rule must be understood in such a way that it applies only if the party has learned of the testimonies, that is, has become aware of them through themselves or through their representative. » Surely, no one will claim that Rosa Olivella learned of the testimonies through herself or through her representative, when eight years had already passed since the beginning of the dispute, and four judgments had been rendered. It is now worthwhile to hear four witnesses, properly questioned by the judge at an opportune time, who all responded with one voice, stating that they knew of Carmela's relationship to Dordam only in the most distant degree.

[*Latin ed. p. 419*]

BARCINONA. 419 Furthermore, it must be added that Ildephonsus Gatell, the parish priest proper to the betrothed, having thoroughly examined these witnesses, who were proven by water and fire, meticulously discussed and investigated with Emmanuel, Mary, his parents, and others informed about the matter, the impediment of consanguinity at that time. But what could be more absurd than the bad faith that is being devised in this case? For it is clear to no one that a great effort was expended so that not only the betrothed, but also Mary's parents, would prevent this marriage for years: and no one will consider them so foolish as to believe that they would fulfill their vows by a marriage that was invalid. For the priest himself notes that it was easy, in order to avoid the nullity of the marriage, to appeal to the Curia for a dispensation. What is more unjust than to suspect that Emmanuel, feeling the dissolution of the marriage, was, in fact, deceived by the simulation of marriage, and that he intended to cast his wife and daughter into extreme poverty and disgrace

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through the greatest injustice? With these facts established, it should be noted in passing that nothing is more established in law than that children, however born of a condemned union, are considered, as if born among those between whom marriage cannot exist, not illegitimate, nor incestuous, but simply natural with regard to the right of succession, if either or both parents are ignorant of the impediment to marriage existing between them. To the point, the Sacred Roman Rota, in decree 325, no. 7, part 12, recent, states: "According to the foundation (that the children are incestuous), it ceases from the fact that it is not proven that Diana knew of the prior concubinage of Alexander with Mary's sister, Dominica, before she conceived children from him; for ignorance excuses from incest, and the children born from it are considered NATURAL ONLY, AND NOT INCESTUOUS, NOR ILLEGITIMATE." The same Rota, in decree 376, no. 5, part 16, recent, recalls: "It pleased the Most Reverent Fathers, in response to the preceding decree, under §. second, that since the concubinage (of the man with the woman's sister) was not proven to be known by the mother, NO INCEST IS COMMITTED SO THAT THE CHILDREN ARE NOT INHERITABLE."

[*Latin ed. p. 420*]

420 BARCINONEN. "Furthermore, following the same reasoning in points 11 and 12 of the aforementioned decision, it states: 'It must be explained why the good faith of one party is sufficient, because, indeed, it is in the interest of the ignorant party that the offspring be considered not only with respect to the other's inheritance, but also that if there is doubt as to whether knowledge or ignorance of an impediment was present, IGNORANCE IS PRESUMED: indeed, if there were doubt at the very act of the birth of the children, such doubt would not be detrimental, since it would be equivalent to the ignorance of that time.' If ignorance of incest makes it so that children born from an incestuous union are considered not incestuous, but natural, then in the same way, a marriage that is null and invalid makes the children legitimate, just as a true marriage does, if both or either of the spouses are in good faith. The same Rota, cited above, in points 9, 10, and 18 states: 'It is correctly argued that from marriage, even if null, children are born LEGITIMATE, if either or both of the parents are in good faith, as is stated in chapter 11 and chapter 60, concerning the time when children are legitimate; thus, children born from concubinage, even if conceived incestuously, are NATURAL and not illegitimate, if one of the parents did not concubine knowingly. The same applies to a putative marriage and a true marriage.' But it is superfluous to dwell on these matters, because the marriage in question is entirely valid and firm: for it was celebrated in one and the same act, and the impediment was discovered and relaxed with the help of a dispensation. However, Rosa Olivella, with no better intention, and having infected the good faith

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of Carmela and Emmanuel, attacks the value of the dispensation and the marriage. Briefly, each objection, whether against the dispensation or against the value of the marriage, must be refuted. First of all, Rosa considers the dispensation to be invalid, because only the fourth degree of consanguinity was presented to the vicar general, while Carmela and Emmanuel were related by the third and fourth degrees of consanguinity. But Pope Pius V refutes Rosa with his constitution — Sanctissimus — on March 20, 1566, stating..."

[*Latin ed. p. 421*]

BARCELONA. In the year 421, restoring ancient law, it was decreed and ordered that, henceforth, in all dispensations granted for marriages contracted or to be contracted between men and women who are prohibited by consanguinity, or affinity, or by mixed relationships arising from the same origin, whoever they may be, provided that they are not directly joined by any degree, the REMOTER degree shall be considered, and the CLOSER one shall be disregarded; and for this purpose, it suffices to consider the REMOTER degree. However, Pope Benedict XIV, in his constitution *Etsi Pastoralis*, removed any pretext for doubt. Finally, Rosa Olivella claimed that the dispensation was ineffective because Emmanuel did not renew his consent. But this objection is flawed in fact and erroneous in law. For, after obtaining the dispensation, Emmanuel, spurred to express his consent to the marriage again, did so in the best way he could: he sighed in the presence of the parish priest; he sighed more deeply in the presence of the vice-parish priest, sighs which he was accustomed to emit in his extreme state of health. Indeed, if ordinary sighs are attributed to illness, an extraordinary sigh must be attributed to an extraordinary cause, which was nothing other than the prompting to express his consent. We are, therefore, dealing with a case in which conclusive proofs are not required, but LIGHTER evidence is sufficient. But what could be the necessity for a new expression of consent in the present case? For, from this case, are entirely absent the causes for which authors usually require a renewed expression of consent for marriage. The first reason is the knowledge of an impediment that dissolves marriage, possessed by the spouses at the time the marriage was contracted. For it is scarcely conceivable how someone can truly consent to a marriage if they know that it is invalid. On the contrary, one can perfectly consent, even if through error, if they believe that there is no impediment that dissolves the marriage. And that consent is valid and perfect in the eyes of natural law, because it falls within the scope of natural law. Therefore, once the obstacle, that is, the impediment, has been removed by dispensation, only the REMOTER degree needs to be expressed.

[*Latin ed. p. 422*]

422. BARCINONEN. Once the initial agreement is removed, that is, if

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it still persists in both spouses, or if it has not been revoked, it produces its effect, which, in the presence of an impediment, remained suspended. In our case, we have clearly demonstrated the good faith of the spouse. Another cause for concern is that, during the period between the celebration of the marriage and the removal of the impediment, both or either of the spouses may have changed their minds and revoked the agreement. If the agreement is withdrawn while the effect remains suspended, and the impediment is then suddenly removed, the marriage will not acquire validity without a new agreement, because the initial agreement can no longer operate, since it has already ceased to exist; and an effect cannot be produced without a cause. But in our case, as the parish priest stated, the celebration of the marriage and the removal of the impediment occurred almost simultaneously. It is not permissible to suspect a change of mind on the part of Carmela, because she had nothing more than to complete a marriage that was valid in law; and, according to the testimony of the priest, who was present, Carmela was present when Emmanuel was urged to reaffirm his consent, not in Emmanuel, as the priest has testified on several occasions. Finally, the third reason given by the authors to proclaim the necessity of a new agreement is that, in the cases they discuss, a new agreement can be obtained without any inconvenience, and the omission of a new agreement can cause very serious harm. They are speaking of two spouses who are both alive and who, without renewing their consent, as it would be necessary, would continue to live in concubinage; of spouses who are not only able, but also willing, to renew their consent. For all the authors teach that when it is foreseen that one of the spouses, having knowledge of the impediment, will withdraw from the marriage, all questions regarding a new agreement should be set aside. Conversely, in the present controversy, the proclamation of the necessity of a new agreement would result in shame and other very serious damages to Carmela and her daughter, to whom natural law attributes the honors and rights of a wife and daughter, respectively. The marriage cannot be declared invalid, lest Emmanuel be declared the worst of men, since he—

[*Latin ed. p. 423*]

BARCELONA. 423. The impious disregard the rights of nature, having cast Carmel and Elvira into a heap of irreparable evils. For this very reason, the Sacred Roman Rota, in controversies of this kind, namely those concerning marriage, and the death of one of the spouses, perpetually proclaims that valid marriage, even if the other spouse has died, remains valid, even if there is no new consent in the revalidation thereof, as is stated in Decree 455, part 1, in Decree 687, part 2, recent, and in countless other instances. From the aforementioned, the question "Whether the sentence of the Roman Rota of July 7, 1891, should be confirmed or rejected in this case," elicited a full and resounding response: "The sentence is to be CON-

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FIRMED." With these premises, the following question was to be considered: Whether the sentence of the Roman Rota of July 7, 1891, should be confirmed or rejected in this case. RESOLUTION. The Sacred Congregation, after deliberation on December 16, 1893, decided to respond: "The sentence is to be confirmed." FROM WHICH IT MAY BE UNDERSTOOD: I. Although illicit, a marriage is nevertheless valid in which a dispensation has been obtained over a more remote degree, without mention of a closer degree; provided that the relationship is not of the first degree of consanguinity or affinity, and provided that there is no defect of deception or fraud, or bad faith. II. That, in the case where one party is ignorant of the impediment, it is not necessary to renew consent for the valid restoration of the marriage, according to the opinion of the Theologians; because, although the prior consent lacked its effect due to a legal impediment, it was nevertheless valid according to natural law, because it was given with regard to a person who was, by natural law, capable; and therefore, once the impediment is removed, the prior consent is sufficient. III. When it is a question of a marriage dissolved by the death of one or both spouses, it suffices to demonstrate its va-

[*Latin ed. p. 424*]

424. BARCINONE. The matter concerns not merely the essence of marriage, but also its consequences. I. It is clear that the subject under discussion pertains to the consequences of marriage, since it deals with the protection of the rights and honor of the surviving spouse, and of the female child who, according to the law of nature, has a right to the father's name, honors, and all the goods of his fortune. V. Children, even those conceived from a condemned union, are to be called simply "natural" with regard to the right of succession, and in no way "spurious" or "incestuous," if either or both parents are unaware of the impediment to marriage existing between them. VI. It is not possible for children born from a marriage to be called "legitimate" if either or both spouses are in good faith.

NOLA. SOLUTION. On September 9, 1893. Through summary petitions. The Prelate of Nola addressed the Sacred Congregation with the following letter: "By the bull *Pius et misericors* of Benedict XIII, it is prescribed that a half-annual payment be made from every simple benefice, not granted by the Apostolic See, and from every curatial benefice that exceeds 100 scudi. The canons of the Cathedral and collegiate churches, and other benefices, have never paid this half-annual payment. Although the passage of time does not suggest that such a burden should be revived, it would nevertheless be useful for the construction of the Cathedral. With these considerations, for the tranquility of his conscience, he asks: 1. Whether, with the clause removed and the decree annulled, new benefices are to be burdened in general with the payment of the half-annual payment, including those who have not paid it in the last ten years. 2. Whether, from the time that

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the burdens of the benefice are removed, a...

COMPENDIUM FACTI.

[*Latin ed. p. 425*]

NOLA: There are 425 [individuals], from which the tax of succession could also be deducted, and whatever is repaid for the region of Placentia. 3. Whether the revenues of benefices should be charged with the *media annata, to the extent that their income exceeds 900 *libellae*. The following discussion seems to be a *synopsis* regarding the *media annata* to be paid. It is best, above all, to refer to the very words of the praised Pontiff concerning the matter. Furthermore, beginning with the fact that, according to God's command, temples must be built, and maintained with due splendor, he continues as follows: "We decree, command, and order, throughout all of ITALY and the adjacent ISLANDS, that henceforth, provisions from canonries and benefices, whether residential and uncurated, even those that are uncertain, not exceeding the annual value of one hundred *scuta* of Roman money, as well as those that are non-residential and simple, located outside collegiate churches, shall be held liable to pay and respectively deposit the *media annata* for the construction of the cathedral church; and provisions from canonries and benefices, whether residential and uncurated, even those that are uncertain, not exceeding the annual value of one hundred *scuta* of the aforementioned Roman money, as well as those that are non-residential and simple, located in collegiate churches, or transferred to them, shall likewise be held liable to pay and respectively deposit the *media annata* for the construction of the collegiate church. And these things, indeed, the Pontiff decrees for all benefices "provided that the collation, institution, and provision of the Holy See are not in any way lacking." Indeed, since the words of the Pontiff are so clear, so that there can be no doubt whatsoever about the obligation to pay the *media annata*, and from elsewhere in Title [De Constitutionibus], it is quite certain and more than sufficient that the rules for enacting Pontifical Constitutions must be followed: therefore, the petition of the Prelate of Nola appears entirely natural and legitimate, especially since below in the same Constitution of Benedict XIII, it is read: "Regarding the foregoing, we particularly and strictly charge the consciences of all archbishops, bishops, and lower prelates, and also of Chapters." 4.

[*Latin ed. p. 426*]

426 In Nola, these stricter terms, and consequently the obligation of the sacred prelates or chapters regarding the diligent oversight of the aforementioned burden, are most appropriately justified by the most noble cause for which the aforementioned Pontiff imposed the aforementioned annual payment: namely, that through such payments,

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certain and necessary revenues may be secured, by which provision can be made for the maintenance, preservation, and repair of cathedral or collegiate churches. This is certainly in accordance with the sacred canons, which, as everyone knows, have not neglected any means to ensure that the house of God does not, through the ravages of time, collapse, fall into disrepair, or be maintained in a less decent manner. This annual payment, to be made to the cathedral or collegiate church, is analogous to that which, in established cases, is paid to the Pope in favor of and in support of the Apostolic See, and also to certain other pensions which have been destined for pious purposes. Therefore, it seems most fitting and proper that such payments should continue in force. And it must be said that the Sacred Congregation of the Council, which in Aquilana on April 27, 1630, and in Marsicana in April 1591, declared that all payments customarily made on the occasion of canonical provisions should be maintained if they are to be converted to pious uses, has also held this view. This decision is based on the decree of the Council of Trent, in Chapter 14, Session 24, concerning reforms. However, although this obligation remains firm and constant, it does not seem to preclude the possibility that all expenses of any kind should be taken into account in the calculation of the annual payment. For in the very Bull of Benedict XIII, it is stated that all expenses may be included. Therefore, as even the generally accepted practice in similar cases indicates, those expenses which are commonly called "taxes of succession, and expenses of Royal Approval" also seem to be included. THE ANNUAL PAYMENT APPEARS TO BE PAYABLE. But on the other hand, there are several reasons that suggest the cessation of this disputed obligation. Firstly, there is a very common custom in Italy, by virtue of which...

[*Latin ed. p. 427*]

In Nola, the custom of paying a half-year's salary has, in many places, ceased to be observed for some time. However, when such a custom persists alongside silence from the Church, it would seem that a legitimate approval might be presumed. For, in law, a custom legitimately established is considered valid, and nothing that is corrupt in law or morals can be considered to carry with it the presumption of a better title, and therefore also the presumed favor of the Apostles. In our case, regarding past practices, a custom observed for ten years would suffice to establish its legitimacy. Furthermore, we find a weighty reason for the silence of the Church and the cessation of the aforementioned obligation in the changed circumstances of things and times: namely, in the continuous increase in expenses, and in the great diminution of revenues, so that, in our case, it seems appropriate to apply the Decree of the Sacred Congregation of the Holy Office and Regular Canons of January 28, 1877, concerning pensions, in which it is stated: "that, in proportion to the diminution or loss of said

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revenues, the pensions must also be proportionately reduced, or cease." This, indeed, is what the Bishop of Nola emphasizes most in his letters. Finally, the following should be noted from his cited constitution by Benedict XII: "We also decree that the benefices of those dioceses and collegiate churches, in which there is found a special patrimony or endowment for the fabric, or in which the obligation or duty of repairing, restoring, and maintaining the churches rests with the local communities, or in which the patrons of said churches are present... " Indeed, it can be said that both of these conditions exist to some extent in the Church of Nola. There exists, namely, a special patrimony established by Innocent XI, through the Bull "Inscrutabili" issued in the year 1644, and subsequently confirmed by his successor, Benedict XIII, in which the Supreme Pontiff completely exempts and frees "Archbishops, Bishops, and lesser prelates of the aforementioned kingdom (of Naples)... from any spoliation and from any other legal claim to demand and collect money, goods, effects, movables, quasi-movables, and other assets..."

[*Latin ed. p. 428*]

428 In Nola, tamen, hoc statutum fuit, ut « omnia et singula praedicta, ad alias metropolitanas et alias ecclesias . . . . transferantur et erogentur. » Praeterea, subsidia a Gubernio offerta sunt, sicut ipse Episcopus Nolanus indicavit, quae, quamquam non possunt stricte assimilari dotationibus patronorum, vel reditibus ab iisdem ecclesiis assignatis, semper tamen ad utilitatem et necessitatem ecclesiarum prospiciunt, praesertim si stabiliter sunt constituta. His considerationibus, interrogatum est quid responderetur ad petitiones. RESOLUTIO. Sacra Congregatio C., post deliberationem, die 19 Septembris 1893, censuit respondere: "Attentis peculiaribus temporum rerumque adiunctis, et his perseverantibus, nihil innovandum." FIRMANA: PETITIO QUOD AD LITTERAS TESTIMONIALES ORDINANDORUM. Die 9 Septembris 1893. Per petitiones summariae. COMPENDIUM PACTI. In relatione status ecclesiae Firmanae, S. C. C. exhibita, haec Cap. 9 de Postulatis, secundo loco, invenitur: « Alterum dubium respicit necessitatem litterarum testimonialium in sacris ordinibus conferendis clericis, qui militare servitium complere coacti sunt, et durante militia, hoc illae vagare debuerunt. Ego scio in Constitutione S. M. Pii IX, Apostolicae sedis, statutum esse: — suspensionem per annum ab ordinum administratione ipso iure incurrunt ordinantes.... subditum proprium qui alibi tanto tempore moratus sit, ut canonicum impedimentum contrahere ibi potuerit, absque Ordinarii eius loci litteris testimonialibus."

[*Latin ed. p. 429*]

FIRMANA 429. Truly, this arrangement of law is so general, that it can be considered as an extension of the obligation imposed by Innocent XII in

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his Constitution—*Speculatores*—and it does not seem to exclude every doubt concerning the matter in question, namely, concerning the entirely precarious residence, and of the same nature as the residence of vagrants, with whom they are compared in law. Furthermore, the Sacred Congregation of Universal Inquisition, to which the Most Holy Lord entrusted the task of examining and revising the law concerning the military draft in relation to the promotion of clerics to the sacred orders, desiring to make the promotion of these clerics as easy as possible, issued regulations on September 18, 1875, which the Bishops of Italy must observe in these cases; and it does not indicate, among these regulations, the necessity of testimonial letters, but rather prescribes habitual and continuous inspection and vigilance over the morals of military clerics, through information obtained from the Ordinaries of the places where the clerics reside, to whom these clerics are specially commended by their own Bishop. — This habitual and continuous inspection, together with the particular information from the Ordinaries, seems to be as effective in ascertaining the manner of life and conduct of the clerics, as testimonial letters issued by ecclesiastical tribunals, and therefore should take the place of such testimonial letters. "Moreover, that arrangement of law contained in the Apostolic Constitution seems to be of the same nature as another, which concerns the proof of the freedom of status by those who wish to be joined in marriage. Indeed, for military personnel, since the impossibility of presenting documents of freedom of status from all the places where they have resided at some time is presumed, it is permitted that the freedom of status be demonstrated by a supplementary oath. It seems that the same should be said for clerics who have completed military service; indeed, perhaps even an oath is not necessarily required in this matter, because for contracting marriage, a true process is required, which is nowhere prescribed for ordination. Otherwise, a grave burden would be imposed on clerics."

[*Latin ed. p. 430*]

430 In FIRMANA, should any cleric have resided within the jurisdiction of a particular Ordinary, even for only six months, they would be obliged to obtain testimonial letters from that Ordinary. However, in a matter of such importance, I desire to know the judgment of the Most Eminent Fathers."

Synopsis of the Discussion:

When the Ordinary, in the exposition of the doubt, has presented arguments that seem to exclude the necessity of testimonial letters, the following observations are made, which may persuade a contrary opinion.

Firstly, it has been noted that the disposition of the law, established in the Constitutions *Speculatores* and of the Apostolic See, remains open and in full force, according to which Bishops cannot confer Holy Orders upon those subjects of theirs who have resided elsewhere for so long a time, so that a canonical impediment might have been incurred there, without

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the testimonial letters of the Ordinary of that place. And since this law extends to all cases in which it has not been expressly derogated from, and in which no legitimate exception is found, it follows that, notwithstanding the reasons presented to the contrary, it must exert its force, even in the case of a notable sojourn of clerics in a particular place due to military service.

Here, therefore, a distinction must be made regarding the duration of the stay, and, taking this into account, it must be considered whether there might ever be established in law provisions for those who are considered vagi, in which case soldiers are not always generically equated with them.

Furthermore, considering the general and clear disposition of the law, as mentioned above, it must be held that the information provided by Ordinaries in the Instruction of the Sacred Congregation of the Holy Office of September 16, 1875 (1), should be considered in place of the testimonial letters themselves. For, since it is a matter of private and secret information, which in the eyes of the law differs greatly from a public document, such as testimonial letters for the granting of orders, it would be best if the vigilance of the Ordinaries, concerning clerics in military service, (1) *Recole*, Vol. XXIII, 40.

[*Latin ed. p. 431*]

FIRMO: That those undergoing military service may be admitted to the novitiate, obstacles may arise due to particular circumstances and conditions of the places and things involved, or for other reasons, because the information provided by them is either not completely accurate or is entirely lacking. Therefore, in the Instruction of the Holy Congregation for Regular Canonries, dated November 27, 1892 (1), in which the same, if not stricter, rules are laid down as in the Instruction of the Holy Congregation of the Index, regarding the vigilance and inspection exercised by the Ordinary of the place and the Superiors of regular orders over the morals and manner of life of any religious who are undergoing military service, the following is stated in paragraph 5: "For all [candidates] who are to be admitted to solemn profession and to the sacred orders, testimonial letters are necessary from the diocesan Ordinaries in whose territory they have resided for at least three months." Finally, it would not be unreasonable to demand the same standards for soldiers being joined in marriage and for clerics being ordained, especially since for the former, a simple declaration of freedom is sufficient, while for the latter, testimonial letters are required not only regarding their freedom of state, but also regarding other canonical impediments. *Monacelli Form. leg. pract. De collat. Ord. form. 1.* Considering these matters, the question was raised as to what should be answered in prayer. RESOLUTION. The Holy Congregation, after deliberation on September 9, 1893, decided to respond: That testimonial letters are necessary whenever a candidate has resided in a diocese for at least three months. FROM WHICH IT IS UNDERSTOOD: Those who are to be

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admitted to the sacred orders must present testimonial letters from those Bishops in whose dioceses they have resided for at least three months, just as is required of young men from religious families who are subject to military service. (1) See Vol. XXV, 635.

[*Latin ed. p. 432*]

432 FROM THE DECREE of the Most Holy Congregation of Bishops and Regulars of Havana, dated August 25, 1893. In Havana*, a city of the Island of Cuba, there exists a Hospital for the care of lepers, dedicated to Saint Lazarus, and entrusted to the Sisters of Charity of Saint Vincent de Paul; whose spiritual care is exercised by a priest, the chaplain, who is now Prudentius Rodríguez. Although the cause is unknown, the spiritual father was not pleasing to the community; which became clearly evident on September 4, 1892. For the lepers, having made a sedition, hindered the chaplain by threats and insults from returning to his residence in the Hospital. Informed of this, the Bishop gave a mandate to the Vicar General to investigate the matter. On September 10, 1892, the Vicar General arrived at the Hospital with his secretary; and, having warned the Superior of the aforementioned Hospital that the rude offense inflicted upon the chaplain, and the omission of the same Superior in immediately informing the Ordinary of the sedition of the lepers, had caused great sorrow to the Bishop, he ordered that no priest, either regular or secular, could celebrate Mass in the Hospital, and that the Most Holy Eucharist could not be kept there, until both offenses were repaired. During this time, a religious woman, named Refugio Alvarado, overcome with grief over the decrees of the Vicar General, exclaimed: "Saint Lazarus does not suffer from leprosy, who sent you!" The Vicar General, considering these words to be injurious to the Bishop, immediately denied her Holy Communion; and, with a duly prepared written process, ordered the sister Refugio to sign, which she refused, saying that she was illiterate. Furthermore, he was astonished that the Superior did not intervene.

COMPENDIUM OF THE FACTS.

[*Latin ed. p. 433*]

FATHER GARCIA, having arrived, and having been informed by the Reverend Father Garcia, superior of these religious women, ordered that the Superioress be removed from her office, considering her unfit to govern, and that she be transferred to another house, outside the Diocese; furthermore, Sister Refugio. However, after due satisfaction for the injuries inflicted by one upon the Bishop, and ratified by the other, Father Garcia, who knew nothing of the matter because he was absent at the time, replied that he could do nothing; for such a punishment of removal could only be inflicted by the decisions of the superiors of the Order. The Vicar General,

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not pleased with this response, and citing Tridentine Session 25, chapter 3, concerning reforms, ordered that the two aforementioned religious women be expelled from the Hospice of Saint Lazarus within three days, under the threat of excommunication, and with a fine of 500 livres for the first day, increasing to 2500 livres for the second day, and so on. Father Garcia approached the Vicar General, prepared to pay many fines, but reluctant to carry out the order to expel the religious women, as he believed it exceeded his own authority. The Vicar General, considering this to be untrue, after examining the documents, pronounced a sentence, imposing a fine of 4000 livres in total on Father Garcia and the three religious women, for falsely asserting that they did not have the power to expel the two religious women from the Hospice of Saint Lazarus; and another fine of 250 livres for each day until the aforementioned sisters were expelled from the Hospice; he deprived Father Garcia and the aforementioned religious women of all jurisdiction, so that they would incur the censure of excommunication for any act of jurisdiction; he deprived the aforementioned sisters of the Holy Eucharist until the orders were fulfilled; and he burdened these persons with all the expenses of the proceedings. Father Garcia, who, in order to avoid excommunication, had been relegated to the Monastery of Mercy, paid a fine of 527 livres, but was unable to pay the 6000 livres, the total amount of the fines imposed. The Superioress, who had persisted in exercising her authority, was declared to have incurred excommunication. Finally, an end was put to this state of affairs, as recorded in the Acts, Volume XXVI, page CCCVII, line 28.

[*Latin ed. p. 434*]

434. In Havana, the question was presented to the highest authority, the Holy See, with the unanimous consent of both the General Father of the entire Order and the Daughters of Charity subject to the same Order. It was requested that the judgment of the Havana court be declared to have no validity, because: 1. it was issued against persons exempt from the jurisdiction of the Bishop; 2. it lacked the proper legal forms, namely, summons, three warnings, and legitimate defense; 3. the penalties imposed were excessive and not proportionate to the alleged offenses.

SYNOPTIC DISCUSSION: DEFENSE OF FATHER GARCIA. The Advocate argues that the judgment of the Havana court, issued on September 20, 1892, has no validity, because all the provisions of the sacred canons regarding legal proceedings were disregarded. And indeed, the records show that the religious women were not summoned to appear, nor were they given the opportunity to defend themselves. Furthermore, it is asserted that Father Garcia either did not receive three warnings, or, if he did receive them, they were so ambiguous that it was impossible to discern from them the persistence that warrants the penalty of excommunication. In addition to the lack of proper legal forms, it is argued that the judgment should

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not be considered valid because it was issued against persons exempt from the ordinary jurisdiction of the Bishop. The exemption of Father Garcia was proven by papal constitutions, which granted this exemption to the Missionaries of St. Vincent de Paul. Furthermore, the Daughters of Charity, by the very nature of their institution, which is entirely lay, are subject in matters of ordination and internal discipline to the General Father of the Missionaries of St. Vincent de Paul. Pointing out the relevance of the matter, the Advocate notes that the Missionaries of St. Vincent de Paul and the Daughters of Charity were not favorably regarded by the Havana court, and that this prejudice could easily have influenced the judgment rendered against them. He also observes that the judgment of the Vicar General made no mention of the complaints of the Chaplain of the Hospital of St. Lazarus against the Daughters of Charity, even though the petition of the Chaplain himself constituted the basis of this process. Therefore...

[*Latin ed. p. 435*]

The defense argues that 435 sisters suffered unjust punishments; for the words spoken by Sister Refugio were either not correctly interpreted, or should be understood as not directed against the Bishop, but against the chaplain, who was the primary cause of the punishments inflicted upon the sisters. But if those words are properly understood, they signify nothing other than "that Saint Lazarus does not have leprosy." Furthermore, Sister Refugio appears excusable when, through a minor falsehood, she excused herself from signing the procès-verbal: for in doing so, she intended nothing more than to alleviate the distress of her mind; she wished to retract an action contrary to her own will, without causing any harm to a third party. This falsehood could easily have been rectified with a small correction. Therefore, it is not surprising that the Superior did not violently attack Sister Refugio, whose minor fault she had perceived, as the Vicar General desired. Indeed, even if she had discovered a serious fault, the Superior could not have acted otherwise, because the Vicar General had entirely reserved the knowledge of the offense to himself. From these statements, the defense concludes that these two religious women were innocent of these harms; and therefore, even apart from the defect in form, the judgment rendered cannot be upheld. Regarding Father Garciam, the defense also argues that the judgment is flawed, even if the religious women had committed faults; for neither he, nor those religious women who advised him, could have expelled Sister Refugio from the religious house, nor could they have removed the Superior from her office, as the Vicar General presumptuously claimed; and they were not empowered to do so by their own rules. Father Garciam did what he could; for, after consulting with the council, he inquired whether the Superior could be removed from her office and whether Sister Refugio could be expelled from the religious house; and the council unanimously responded negatively; and the General Superior,

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having been made more certain, proceeded to that judgment. Finally, the advocate clears Father Garciam of the accusations of rebellion and perjury, and concludes: given and not conceded.

[*Latin ed. p. 436*]

436. HABANEN. Since Father Garcia was also accused, the General Superior could not inquire into the matter, because the Order, according to the Bulls and Constitutions of the Supreme Pontiffs, is exempt from the jurisdiction of the Bishop. Furthermore, those who seek to render the religious sisters immune from the accusation brought against them are acting wrongly; for they were neither summoned nor admitted to their own defense, contrary to the disposition of canon law: "How and when, concerning accusations and inquiries; the person against whom the inquiry is to be made must be present, unless he has absent himself through contumacy; and those chapters concerning which the inquiry is to be made must be presented to him, so that he may have the opportunity to defend himself." Approaching the matter more closely, the defender stated that neither the Council nor Father Garcia had the authority to carry out the Bishop's will; moreover, even if they could have accomplished this, they could not be compelled by the Bishop, from whose jurisdiction they are exempt; but only by their own Superiors. With these and other points noted, the advocate stated that the sentence of the Habanen court is invalid and of no value, due to a lack of due process, because false and unsubstantiated accusations were found against the accused; and because it was pronounced against persons exempt from episcopal jurisdiction.

DEFENSE OF THE CATHEDRAL. The advocate began with a lengthy account of the facts, in order to demonstrate the guilt of Father Garcia and the religious sisters, and to prove the justice of the sentence; and he requests that it be confirmed, since he wishes it to be considered valid, either intrinsically or extrinsically. And with regard to its intrinsic validity, the other side also admits that three things are required to impose censure: namely, an external offense, a mortal sin, and contumacy; and all three were present in this case. Indeed, the notoriety of the act was present, confirmed by the testimony of witnesses; contumacy was present, because no one ever obeyed; and finally, there was a grave fault; and because the matter concerned a grave offense against the Bishop, consisting of false assertions, confirmed by oath. Furthermore, even if the matter itself was considered minor, it became grave because of the dignity of the Bishop, the condition of the persons involved, and the nature of the place; thus, the sentence is entirely valid.

[*Latin ed. p. 437*]

HABANEN. 437. It must be maintained. But that censures may be imposed, even though the matter itself is intrinsically light, yet made grave

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by the concurrence of circumstances, is affirmed by Benedict XIV in *De Synod. Dioec.*, book 7, chapter 46, paragraph 1. "Indeed, it can happen that a matter which, when considered in itself, appears light, may nevertheless appear grave if the circumstances surrounding it are considered. In this case, it will certainly be permissible to restrain him with the sword of censures." Truly, this judgment was valid, not only intrinsically, but also extrinsically, because the judge proceeded properly. And in truth, three things are required to impose an irrevocable censure: it must be proven that the act has been committed; and this was established by the acts, for the Vicar General cited Father Garcia, whom he repeatedly urged to punish the notorious offense, proven by the testimony of witnesses, and which was such that no defense could avail. He also granted ample authority to defend his rights, and warned him of the censure that would be incurred. To further demonstrate this, the defender added that the highest authorities had exercised the utmost diligence in proceeding against Father Garcia, and that all doctors were unanimous in the opinion that the Prelate, when dealing with an accepted injury, can punish it with censures, without observing any order of law, even without any necessity of Scripture, and orally – *De Luca*, notes to the Holy Council of Trent, discourse 43, paragraph 4. He can punish immediately, without leaving room for appeal, only remitting the censure to the extent that it abstains from the injury; *De Luca*, *Miscel.*, discourse 15, *in fine*. But if any figure of judgment is employed, and in imposing such a censure, some solemnity is omitted, then the useful is not vitiated by the useless; *De Luca*, *de iurisd.*, 46, paragraph 26. As for the Superior of the Congregation of St. Lazarus, she is said to have been subjected to excommunication, because, although duly warned, she acted against a decree of the bishop, to which a censure was attached. As for other penalties, the defender stated that the Vicar General strictly followed the decrees of the Council of Trent, Session 25, chapter 14. And neither...

[*Latin ed. p. 438*]

438. It is argued that excessive monetary penalties are appropriate when considering the wealth enjoyed by those being penalized. Similarly, it cannot be said that the Bishop was unable to proceed against those who are exempt; for the privilege of exemption is not without its limits, of which 47 are enumerated by Fagliano; among which the present case deserves to be included. Fagnanus, having proposed the question of whether the Bishop possesses jurisdiction over the exempt, distinguishes between secular clergy and exempt regular clergy. Among the regular clergy, he distinguishes between those who live within the cloister and those who live outside the cloister. For those who live within the cloister, he establishes the principle that they are in no way subject to the visitation or jurisdiction of the Bishop *de officio*. *Ordinarii C. grave n. 34*; but he adds: "except for the cases listed below, in which regular clergy, even those living within

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the cloister, are subject to the visitation or jurisdiction of the Bishop." After enumerating 33 such cases, he continues: "The thirty-third is that of regular clergy who, although living within the cloister, nevertheless commit offenses outside of it, openly and scandalously; these can be punished by the Bishop according to the terms of canon 14 of Session 25 concerning religious orders, and the Constitutions of Clement VIII, issued on March 18, 1596." Furthermore, another case is cited in which the exemption of the regular clergy ceases with respect to the Bishop: namely, when the regular clergy commit offenses against the person of the Bishop, or disturb the jurisdiction of the prelates, or prevent them from carrying out their duties. In these cases, the Sacred Congregation has judged that they can be legitimately coerced and punished by the same prelates, without any exception. Furthermore, the authority of Barbosa is cited, *Parte 3, all. 105, de offic, et potest. Episcopi*, who, in addition to numerous resolutions of the S. Congregation *E E. et R R.*, cites the opinion that the Bishop should warn the Superior twice or three times, so that he may be compelled to punish the offenders. The answer given to this question was: "It is sufficient for the Bishop to warn the Superior once." The Superior, however, who is negligent, may be deprived of his office by his prelate *Reinffest. I. c; Martha de iurisdict. J Ö. 4 c. 82*. With these premises, the advocate urges that the judgment of the court be confirmed, so that the authority of the Bishop may not be diminished.

[*Latin ed. p. 439*]

HABANEN. 439, moreover, that the rigid form of judgment has not been applied in this matter. Having noted these points on both sides, the purpose was to resolve the doubt as to whether and how the decree of the episcopal curia of Habanen, dated September 20, 1892, should be confirmed or revoked in this case. RESOLUTION. The Sacred Congregation and Regular Canons, after deliberation on August 22, 1893, decided to respond as follows: Negatively to the first part of the doubt; affirmatively to the second, and furthermore. Moreover, it is to be written to the Bishop, according to his mind. LETTERS: The Most Holy Pope Leo XIII wrote letters to the Bishop of Recanati and Loreto concerning the celebration of the completion of the sixth centenary, from which that diocese is ennobled by the blessed House of the B. Virgin Mary. The common joy and the news of this auspicious event arrived in a letter which, although not entirely unexpected, was nonetheless pleasing. It pleased Us greatly, confirming Our most wise trust, that God, with the most holy grace of His paternal love, may grant greater assistance to the Church in its present trials. And you, Venerable Brother, whose church is nobly ennobled by the blessed House of the Virgin, may such trust bring forth most excellent prospects for the same sacred House, as the sixth century is now being completed, and Our ancestors were the first to honor it. We share with you with great joy and hope; we also desire

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to foster both in every way. Therefore, we urge the Christian people, and having given further invitations to greater piety, we have decided, through Our own Apostolic Letters, a copy of which we have taken care to send to you with this letter. You, Venerable Brother, in this Our purpose, recognize that we wish to offer a testimony of the particular benevolence with which we embrace you, and also a reward for your singular diligence, you who were the author of those same solemnities.

[*Latin ed. p. 440*]

440 Letters and a most important decree: from the most beneficent Mother, we offer you worthy praise. And may you be blessed in your endeavors to obtain the heavenly gifts, and we impart to you, along with your clergy, the Apostolic blessing for your people and your work. Given in Rome, at Saint Peter's, on the twentieth day of the month of June, in the year 1894, in the sixteenth year of Our pontificate. LEO XIII, Pope. Letters in the form of a Brief, by which privileges and indulgences are upon it. The blessed House of Nazareth, dedicated to the Mother of God, who greeted the Angel, "Because he hath regarded the humility of his handmaid," is rightly held in high esteem among the most sacred monuments of the Christian faith, and this is demonstrated by numerous documents and acts of Our predecessors, by the honors and privileges bestowed upon it. As the records of the Church attest, the image of the Virgin Mary was miraculously transported from Italy to the Picentes, by the most benevolent design of God, and was made available for the veneration of the people of Laureta, where it continuously converts the pious prayers and devotions of all, and has remained ablaze with the fervor of centuries. It is worthy of remembrance how frequent and magnificent pilgrimages have been made from all parts to this place; how splendidly the Basilica was built there, distinguished by the dignity of art and sacred worship; how happily, around it, a new city, as it were, has flourished under the protection of the Virgin. The devotion to this place and the influx of pilgrims have greatly increased the religious spirit, and have brought about many and great private benefits, from which, as from an inexhaustible source, the name of Mary has been so widely invoked, so that, there, more than anywhere else, the oracle itself is fulfilled: "Blessed shall be all generations." We can see and rejoice that, as the memory of these benefits, both great and small, is multiplied by the love and devotion of all, the most beautiful crown of glory daily blossoms. — And to us, who have already long felt the benefits of this venerable House, of the divine Mother, it is all the more pleasing that, by the special design and outstanding zeal of the Venerable Brother Bishop of Recina and Laureta, an eagerness has spread far and wide, so that, for the singular celebrations to be held next December, more than six centuries since that treasure was entrusted to the Church under the most auspicious circumstances, the works that have been begun for

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this purpose are already most generous. We have indeed learned of the projects undertaken for this reason, and are pleased.

[*Latin ed. p. 441*]

LETTERS 441, spurred by zeal, especially to restore and enhance the splendor of the Basilica. To those engaged in such endeavors and their benefactors, deserving of praise, we gladly seize the opportunity to stir up the faith of the faithful towards the earthly dwelling of the Holy Family and the mysteries performed therein. We know that all, especially the Italians, recognize that this is a gift from God, and how it has been either wrested from unworthy dominion or offered as a sign of security. For the foundations of the most blessed seat are dedicated to the beginnings of human salvation, a great and admirable mystery of the Word made flesh, reconciling the lost race to the Father and restoring all things: a mystery of such great joy and delight that the Mother Church diligently recalls it daily. In the same place, the examples of domestic life and conjugal union are a spectacle that calls and restores all families. We ourselves, and also the Associations instituted for this purpose, have striven to achieve this. From this very sacred sanctuary, a great abundance and power of divine grace and sanctity has flowed forth into the Church; and there, a remarkable number of souls have either begun or intensified the flames of outstanding virtue. Therefore, for the most pious fathers, it has been a source of faith, a desire for piety, and joy, a best defense against the divine mercy, and it remains so for our age, especially now when all things are disturbed, for nowhere can one find certainty and stability except in religion. Moreover, the secular celebrations of Loreto, which occur opportunely, encourage all the faithful, and, obeying their own piety and our exhortation, to strive to prove their joy of spirit and their greatest hope in Christ the Lord, and in the most holy Mother and Provident Guardian, in every way possible; in all of which, the Italians are most worthy. May it so be, that through their singular piety, they may receive singular benefits, and, which is most to be desired, may obtain them for the Church, in these times so fraught with difficulties. Indeed, for this very reason, and considering the special solemnity of the occasion, we have decided to grant the petition of that Venerable Brother, to increase the indulgences granted during those very secular celebrations, beyond the ordinary, and to pray. Therefore, trusting in the mercy of Almighty God and the authority of the Blessed Apostles Peter and Paul, and with firm adherence to the privileges and graces granted by our predecessors, we decree...

[*Latin ed. p. 442*]

442 By Letters of the Basilica of Loreto, We grant to all the faithful, the fullest indulgence and remission of all sins to those who, within the time from the first Sunday of the Sacred Advent of this year, inclusive, to the

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Sunday of the Most Holy Trinity of the next year, shall perform those things written below. They shall visit the Basilica of Loreto, either on designated days or on the same day, and there, for the liberty and exaltation of the holy Mother Church, for the peace and unity of the Christian people, for the conversion of sinners, they shall pour forth devout prayers to God, according to Our intention; they shall fast, abstaining from meat on one day, besides the days of fasting prescribed by the Church; furthermore, having confessed their sins duly, they shall receive the most holy Sacrament of the Eucharist, and they shall give something for pious works in alms. We also grant that this indulgence may be applied for the benefit of the souls of those who, joined to God in charity, have departed from this life. To the inhabitants of both the dioceses of Loreto and Recanati, whoever they may be, who, through some just impediment, are prevented from performing all the aforementioned works, We grant an indulgence, provided that they perform some other act of piety in its place. To those who come from afar, that is, from regions outside both of these dioceses, We grant that their pilgrimage shall suffice in place of the prescribed fast. We also grant the power to confessors to dispense with Communion for those who have not yet reached the age of admission. Furthermore, to all confessors legitimately approved in either of the aforementioned dioceses, for this period of time and for the purpose of obtaining the benefits of the Jubilee, We grant and assign to them all those faculties which were granted by the Apostolic Letters of the Most Holy Pontiff, dated the 18th day of February, 1879, with the exception of those things which are excepted in those same Letters. Finally, for the spiritual benefit of all the faithful, during the same period of time, We grant to all and each who shall have piously recited the Lauretan Litany, an indulgence of seven years and a hundred days; a plenary indulgence to those who shall have piously recited it daily, having been duly confessed and having received the holy Communion, and having fulfilled all the other prescribed conditions; and also, that these indulgences may be applied for the benefit of the souls suffering in purgatory. We decree that copies or printed examples of the present Letters, signed by the hand of a public notary and sealed with the seal of the Church, shall be given.

[*Latin ed. p. 443*]

LETTERS 443. The dignity established by the sixty-sixth canon must be applied precisely as it would be applied if the present circumstances were explicitly stated. Given in Rome, at Saint Peter's, under the Fisherman's Ring, on the twenty-third day of January, in the year 1894, during the sixth year of Our Pontificate. For the Lord, CARDINAL NICOLAUS MARINI, Substitute. FROM: DECREE of the Third Congregation for Indulgences, by which a hundred days' indulgence is granted to the Christian faithful who recite the prayer in honor of the Divine Child Jesus. To the Reverend Father, the Rector of the Church of Santa Maria in Aracoeli in this esteemed City,

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humbly requests Your Holiness to deign to grant some indulgence to all the faithful who recite the following prayer in honor of the Divine Child Jesus. PRAYER TO THE DIVINE CHILD Jesus Christ, our most beloved Lord, who, for our sake, willed to be born as a Child in a grotto, to deliver us from the darkness of sin, to draw us to You, and to kindle us with Your holy love, we adore You as our Creator and Redeemer; we acknowledge You and desire You to be our King and Lord, and we offer You our tribute. Most Blessed Father, Rector of the Church of Santa Maria in Aracoeli in this esteemed City, humbly implores Your Holiness, that you would deign to grant some indulgence to the faithful who recite the following prayer in honor of the Infant Jesus. PRAYER TO JESUS, THE INFANT, Most loving Jesus Christ, our Lord, who deigned to be born for us in the manger, that you might redeem us from the darkness of sin, that you might draw us to yourself, and that you might kindle us with your love, we adore you as our Creator and Redeemer; we acknowledge you as our King and Lord, and we offer you our tribute.

[*Latin ed. p. 444*]

444 From the Most Holy Congregation, we offer you all the affections of our poor heart. O Jesus, our Lord and God, deign to accept this offering, and may it be worthy of your favor; forgive our sins, enlighten our minds, and inflame us with that holy fire with which you came into the world, that it may be kindled in our hearts. May our prayer thus become a perpetual sacrifice to your honor; may it always seek your greater glory here on earth, so that one day it may enjoy your infinite beauty in Heaven. So be it.

(1) May the grace of God be with you. The Most Holy Congregation for Indulgences and Sacred Relics, exercising the faculties granted to it by the Most Holy Pope Leo XIII, has granted to all the Christian faithful, who, with at least contrite hearts and with devout intention, recite the aforementioned prayer, a hundred days of indulgence, applicable also to the souls of the departed, once a day, either in the morning or in the evening. This grant is valid forever, without any need for a brief. In spite of anything to the contrary. Given in Rome, from the Secretariat of the same Most Holy Congregation, on the 18th of January, 1894.

Fr. Ignatius Card. Persico, Prefect.

L. & S.

Alexander, Archbishop of Nicopolis, Secretary.

(1) The text of the supplication and the prayer is in Italian; the Latin version was composed by another hand, according to the custom of these publications.

[*Latin ed. p. 445*]

FROM THE HOLY CONGREGATION OF RITES, DECREE concerning the insertion of the blessed John Leonard into the Roman Martyrology.

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In the sixteenth century, when the most grievous plague afflicted the Christian Church and society, due to the Lutheran and Calvinist doctrines, God, whose providence governs all things powerfully and wisely, raised up many holy and outstanding men. To this illustrious company, the blessed JOHN LEONARD rightly and deservedly belongs, who, in the Church of God, shone like a lamp in a dark place, attracting the admiration of all and turning the eyes of many towards him. Not yet twenty-six years of age, he was immediately called to ecclesiastical studies and devoted to the service of the Church, renouncing worldly pursuits. Promoted to the priesthood out of obedience, he bore a great weight for the salvation of souls in the world. His apostolic zeal not only revived the piety of Christians in the Lucchese Republic, but also in Rome and in other dioceses of Italy. Through his sermons and instructions given to young men and women, the wicked were led to the path of justice and salvation, those in danger were placed in safety, and the sermons and the sacraments increased in their influence through him. When the licentiousness of vice seemed to wage war, and to draw men away from every pious duty, he established a religious congregation, which he wished to call the Sodality of the Mother of God. Although he was very busy in governing and expanding this, he did not refuse to undertake other labors for the glory of God. For when his skill in carrying out affairs had been tested, not only by bishops, but also by the Supreme Pontiffs Sixtus V, Clement VIII, and Paul V, he was called upon to address very difficult questions, and to reform certain religious families, a task which he accomplished admirably. Amidst all these many affairs in which he was engaged, he was deeply concerned by the thought that so many people in remote regions, deprived of the light of the Gospel, were sitting in darkness and the shadow of death. For this reason, he laid the foundations, with the help of the most illustrious Prelate, known as Vives, for that excellent Institute, which in Rome...

[*Latin ed. p. 446*]

446. Through the *Rituum* (Rituals) of the Pontifical Congregation, greatly expanded by its expenses and care, the blessed one wonderfully served the cause of the Catholic Faith throughout the world. Therefore, Saint Philip Neri was rightly called the renewer of the people, and he deserved to be called a saint as well. After having demonstrated his devotion to God through miracles, the blessed Pope Pius IX solemnly introduced him among the blessed in Heaven on the ninth day of July in the year 1861. For these reasons, the Sacred Congregation for the Propagation of the Faith expressed its gratitude and a special veneration for this most illustrious man. Now, very humble prayers have been presented to the Most Holy Lord Pope Leo XIII by the General Moderator, Father Joseph M. Flora, and by the alumni of the Institute of Regular Clerics, founded by Saint John himself, so that his praises might be inserted into the Roman

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Martyrology, which is rightfully reserved for the saints; and the Sacred Council for the Propagation of the Faith did not hesitate to recommend these prayers, so that his memory might become even more illustrious in the Church, who so diligently labored to expand it throughout the world. Therefore, by the Most Eminent and Reverend Cardinal Camillo Mazzella, the Relator of this cause, in the assembly of the Ordinary Congregation of the Sacred Rituals, convened at the Vatican, a proposal was made for the approval of an elogium to be inserted into the Roman Martyrology. Furthermore, the Most Reverend Fathers presiding over the Sacred Rituals, after carefully considering the matter, wrote: "It is to be consulted with the Most Holy [Pope] for his blessing; and concerning the approval of the elogium, it is to be presented to the Pope with the Promoter of the Faith." On December 19th of the year 1893. Having been presented to the Most Holy Lord Pope Leo XIII by the undersigned Cardinal Prefect of the aforementioned Congregation, His Holiness reviewed and amended the proposed elogium, along with the Most Reverend Father Augustine Caprara, the Promoter of the Holy Faith, as follows, and approved it, ordering it to be inscribed in the Roman Martyrology: "On the first day of October, at Rome, the blessed John Leonard, the Confessor, Founder of the Congregation of Regular Clerics of the Most Holy Mary, through his works and miracles; whose works were the Missions instituted by the Propaganda Fide." On the 21st day of the same month and year. C. CARD. ALOISI - MASELLA, Prefect of the Sacred Roman Congregation. L. * S. VINCENT NUSSI, Secretary of the Sacred Roman Congregation.

[*Latin ed. p. 447*]

447 FROM THE APOSTOLIC PENITENTIARY: Doubts concerning priests attending bullfights, having with them the Sacred Oil, either in the arena or nearby. Most Reverend Lord, concerning the custom, which prevails in Spain, of bullfighting in the arena, it is known that in certain places priests are present in the arena, having with them the Sacred Oil, so that, if necessity arises, they may administer Extreme Unction to those in need. The Bishop of Civitas Rodrigo (Ciudad Rodrigo) also asks: I. Can the Prelate consent to a priest attending the bullfight, having with him the Sacred Oil? II. Assuming that it appears improper, that such a sacred thing should be present in so profane a place, could the Sacred Oil, for caution's sake, be kept in another nearby place? III. Can it be tolerated that a priest, even by custom, should be present in the arena? The Apostolic Penitentiary, having carefully considered the matter and the reasons presented, responds: To I: No. To II: It can be tolerated that the Sacred Oil be kept in a nearby sacred place, or at least in a place that is honest and decent, taking care that the priest's presence with the Sacred Oil does not cause him to appear to approve or promote such a spectacle, nor that this be inferred from his presence. To III: No. Given in Rome, in the Apostolic

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Penitentiary, on the 19th of September, 1893. N. AVERARDIUS, Secretary of Grace. A. C. MARTINI, Secretary.

[*Latin ed. p. 448*]

448 FROM THE SACRED CONGREGATION OF THE HOLY OFFICE, concerning the rejection of a heretical godfather. In a certain parish in Hungary, it happened that a Catholic, who had apostatized from the faith, wished to be a godfather in the baptism of his own child, but the parish priest, observing the laws of the Church, refused him. However, according to a declaration of the Sacred Penitentiary of December 10, 1860, article 9 (1), it is known that someone publicly condemned for ecclesiastical censures can be admitted to the office of godfather, so that grave evils might result from such a rejection; and the question is asked: Whether this declaration can also extend to heretical godfathers; or whether, as some desire, baptism can be administered in such difficult cases without a godfather. The Sacred Roman and Universal Congregation answered in May 1893: The Holy Office, No. And it is to be done that baptism be administered, if it cannot be otherwise, without a godfather. On Thursday, the 1st of May, let it be conferred without a godfather.

(1) Here is the text of the response of the Sacred Penitentiary, to which we are referring: How should pastors act in the celebration of marriages of those who are manifestly subject to ecclesiastical censures? It is answered: Care must be taken, as far as possible, that those subject to ecclesiastical censures be reconciled with the Church in due manner; and if they refuse to be reconciled, and, unless the marriage is celebrated, grave evils seem to be imminent, the pastor should consult the Ordinary, who, having considered the circumstances and all things that are handed down by approved authors, and especially by Saint Alphonsus, book 6, treatise 1, chapter 2, number 54, will declare what he judges to be more expedient in the Lord, always excluding the celebration of Mass. Furthermore: How should Bishops and pastors act, if anyone subject to the aforementioned censures were to insist on acting as godfather, either in the Sacrament of Confirmation or in Baptism? It is answered: As in the preceding.

[*Latin ed. p. 449*]

449 Letters in the form of a Brief from the Most Holy Pope Leo XIII; in which new instructions are presented concerning Canons, for their honor. Dated January 29, 1894. It is the nature of human institutions and laws that nothing within them be either useless or harmful, that nothing be subject to change by custom, nor be overturned by time, nor corrupted by morals. Thus, in the Church militant on earth, where absolute and perpetual immutability of doctrine is joined with variety in discipline, it often happens that what was once held in high esteem and deservedly valued, sometimes becomes obsolete, and that what was good in its time, through

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the passage of ages, becomes worse. In the early days of the Church, when the fear of Christ was more deeply rooted in the hearts of men, Bishops, to whom the administration of certain affairs was entrusted, were accustomed to choose priests to be their associates, and to add them to their retinue, so that, with their counsel and ministry, they might attend to the more important affairs of the Church. These priests, called Assessors and, as it were, a Senate of Bishops, were known as Canons, because they were more careful and diligent in observing ecclesiastical rules, and they lived a life such that they fulfilled the meaning of their name. Therefore, in order to maintain ecclesiastical discipline, the dignity of Canons was established from the beginning in such a way that those who held it should possess the qualities necessary to assist the Bishop in his work, and that they should serve as an example to the lower clergy in matters pertaining to worship and morals. In our own times, there are some who, forgetful of the original institution, have transformed the colleges of Canons into mere orders of honor, in which there is no duty, but only the titles of dignity and honor. Consequently, since it is human to avoid burdens and to seek honors, there is a considerable number of people who strive, at least for the sake of honor, to be co-opted among the Canons. Indeed, many and full of complaints have been the letters sent to us by Bishops, who are grieved that those who have been admitted to honors and dignities, and who should have "a better grace," should despise earthly things and "glory only in the Cross of our Lord Jesus Christ." Moreover, many priests of this kind, mostly younger ones, who have contributed little or nothing good to the Church, seek, as if they were veterans adorned with glorious insignia and prizes for their virtues, external honors and adornments.

[*Latin ed. p. 450*]

450 Letters are sent to the Bishops, so that they may extract honors and titles, sometimes unjustly, and sometimes by extortion. We, however, having always esteemed it most fitting to honor those sacred ministers who excel others in piety and doctrine, and who have deservedly earned Christian merit, have, concerning this matter, given Apostolic admonitions and instructions, especially on the sixteenth day of the month of September in the year 1884, through the Sacred Congregation, interpreter and defender of the Council of Trident. But now, in these days, it has happened that several sacred prelates have unjustly obtained such honors, which should be awarded to those deserving, and which should serve as an encouragement to others in virtue; and these are often conferred, even without the knowledge of the Ordinaries themselves, and upon those of little worth. Therefore, so that in the future no one may abuse this practice, and after having consulted the Congregation of Sacred Rites, by Our supreme authority We decree and ordain the following:

I. A Bishop, or Ordinary, who wishes to nominate a certain ecclesiastical

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person from another diocese as a Canon, without the consent of his Chapter, shall obtain notification and assent from the Ordinary to whom the nomination is submitted, and shall also show the insignia and privileges which would be granted to him by such a nomination.

II. Canons who are nominated to an honor in another diocese, and who reside there, shall be no more than one-third of the total number of Canons assigned to the Pontifical Basilica, or Metropolitan Church, or Cathedral, or Collegiate Church.

III. Canons who are nominated to an honor in a minor Basilica, or Collegiate Church in the city of Rome, shall possess privileges and insignia only within the territory of the respective Basilica or Collegiate Church, and of its affiliated churches, where the Canons are actually present in number. Those who are Canons of a Metropolitan, Cathedral, or Collegiate Church, or of a minor Basilica outside of Rome, shall possess privileges and insignia only in the diocese in which they reside, and in no way outside of that territory.

IV. These regulations also apply to Canons who have been nominated to an honor up to this day. Thus We will and command that these Our letters be firm and lasting, and that they remain in force in the future; and We decree that if anything should happen concerning these matters, it shall be brought to Our attention: without prejudice to Our regulations and those of the Apostolic Chancery concerning legal matters, and to any special provisions.

(1) These letters were referred to in Vol. XVII, page 554.

[*Latin ed. p. 451*]

LETTERS 45, or general Apostolic Constitutions and Privileges, graces and indulgences, even Apostolic confirmations, or any other firm assurances, and Apostolic Letters under whatever titles and forms, etc., with whatever clauses and decrees, and concerning whatever Chapters, Colleges, and even particular persons of any ecclesiastical dignity, which have been granted by Us at any time, and also concerning any customs, even those of long standing, We wish to nullify and render absolutely void, most broadly and completely, and especially and expressly derogating from the fullness of Apostolic power, and We declare that all others who may act to the contrary in any way are null and void. Given in Rome, at St. Peter's, under the Fisherman's Ring, on the 29th of January, 1894. In the sixteenth year of Our Pontificate. M. CARD. RAMPOLLA. FROM THE HOLY CONGREGATION FOR THE MELVITA DIOCESE OF MARRIAGE. On the 9th of September, 1893. Session 24, Chapter 5, Concerning the reform of marriages. SUMMARY OF THE FACTS. Judith Azzopardi, born in Casal Musta in the Melvita diocese, when she was 24 years of age, was lawfully joined in marriage to Joseph Attard in the parish church of the aforementioned place, who was then 23 years old.

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However, the cohabitation of the newlyweds was neither long-lasting nor peaceful. Indeed, the woman, after scarcely fifteen days had elapsed since the beginning of their cohabitation, abandoned her husband and took refuge with a certain Anthony Grech, with whom she was said to have had dishonorable relations beforehand, and from whom she bore children. It should also be noted that the aforementioned Anthony Grech,

[*Latin ed. p. 452*]

452. In Melevitana, who had already passed away on May 6, 1888, it was established that he was the brother of Margaret Grech, the mother of Joseph Attard, and therefore was related to her by the second degree of consanguinity. In the month of November of the year 1887, the petitions of Judith Azzopardi were submitted to the Sacred Congregation of the Council, presented to the Supreme Pontiff, in which the petitioner requested a declaration of nullity of her marriage, due to a diriment impediment, for which dispensation had never been requested, nor granted, by the Apostolic See. Immediately, the petitions were submitted to the Apostolic Administrator of Melevitana for information and opinion, after which the matter was heard. However, the matter remained pending, and no response was received until December 12, 1890, when the new Archbishop of Malta reported to the Most Eminent Prefect: that the petitions were true, and had been proven by several witnesses, that the petitioner had indeed had perfect carnal intercourse with the brother of her husband's mother: from which, the spouses became related by the second degree due to the illicit intercourse. On January 21, 1891, a decree was issued: "To the Bishop, who should conduct the process regarding the asserted cause of nullity, observing the form of the Constitution of Benedict XIV - Dei Miseratione, etc." Acting on these instructions, the Prelate appointed a defender of the marriage on April 27 of the same year, and on May 4 of the following month, he received the defender's oath to faithfully perform his duties. It is not entirely clear from the records whether the trial was conducted according to the form required by law: there is a lack of a detailed description of the sessions, which is usually recorded by the notary in similar proceedings. It appears that the woman was present in court several times, along with her lawyer, and she confirmed what she had stated in her petition: but it does not appear that she was properly questioned, nor does the word "oath" appear in connection with her. The man, although summoned, refused to appear, and was therefore declared contumacious. However, the defender of the marriage considered it appropriate to include in the records a declaration issued by him in the Curia on October 25, 1890, which is inserted in the records. However, at the end of the process, when the petition of the woman for obtaining a declaration of nullity of the marriage is referred to, presented by her lawyer, the following words are found at the bottom,

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signed by the notary: "On October 17, 1891."

[*Latin ed. p. 453*]

MELEVITANA 453. Joseph Attard appeared and declared and confirmed all that is contained in this present document. Afterwards, under the sanctity of the sacrament, the testimony of the father of Judith and of three others, induced by the same person, was heard. Furthermore, a bundle of documents was added, containing a genealogical chart proving the consanguinity of Anthony Grech with Joseph Attard, as well as written attestations from the official Registry of the city of Valletta and the parish priest of Casal Musta, from which it is learned that Judith Azzopardi gave birth to a child on July 24, 1875, in the hospital of St. Spirit, of unknown paternity, and that she died on January 21, 1877. After the proceedings were concluded, the Bishop, on October 24, 1891, pronounced the sentence: "The marriage entered into on January 9, 1876, in the parish church of Terrae Musta, between Joseph Attard and Judith Azzopardi, is null and void." From this sentence, the defender of the marriage appealed, as prescribed by law. A concise summary of the arguments. THEOLOGIAN'S OPINION. From the foregoing, he said, I believe it is manifest in the present case that a marriage, duly celebrated before the Church and consummated, is being considered, as well as impediments that prevent the marriage itself, namely, consanguinity, and affinity arising from an illicit union; since it is clearly established from the documents that the betrothal was in the second degree of collateral consanguinity with Anthony Grech, his uncle. This Anthony not only had an illicit and complete union with the future bride, Judith, but also conceived a child from her before the celebration of the marriage, without any prior requested and obtained apostolic dispensation. Therefore, the present case consists primarily in clearly proving the following: 1. That Joseph Attard was the nephew, on the mother's side, of Anthony Grech. 2. That Anthony truly had a complete union with Judith Attard before the celebration of the marriage, from which an affinity of the second degree originated. 3. That no dispensation was granted for this affinity.

[*Latin ed. p. 454*]

454. It has been alleged that a relationship by the fourth degree of the collateral line exists between the parties. All of these matters are clearly demonstrated by the process records. And indeed, the documents presented in the process, drawn from the parish registers concerning baptisms and marriages, clearly demonstrate that Anthony Grech is the true brother of the mother, Joseph Attard, and consequently, is truly a nephew of Anthony Grech by the maternal side; therefore, a true relationship in the second degree of the collateral line exists between the first and second parties. Relationship, indeed, is commonly defined by

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theologians and canonists, following St. Thomas, in the 4th distinction, 40th article, 1: "A bond between persons descending from the same nearest ancestor by carnal generation, which arises from the unity and participation of the same blood." Relationship, or consanguinity, prevents marriage up to and including the fourth degree, to which degree this impediment was restricted in the Fourth Lateran Council under Innocent III, as evidenced by Chapter 8, "On Consanguinity and Affinity," with these words: "Furthermore, the prohibition of marriage should not extend beyond the fourth degree of consanguinity and affinity, because in degrees further on, it is generally impossible to observe such a prohibition without great difficulty." Affinity, insofar as it prevents marriage, is "the relationship of certain persons, arising from a complete, whether licit or illicit, carnal union. It is based on the fact that two become one flesh; and thus, one is considered to touch the relatives of the other: and therefore, both affinity and consanguinity are impediments even for non-believers, who, if converted to the faith, cannot be joined in marriage without a dispensation. I said the relationship of certain persons, because this relationship arises only between the relatives of the man who has intercourse with a woman, and the woman herself; as in our case, between the bride, Joseph Attard, and the relatives of her uncle, that is, Anthony Grech, who had carnal intercourse and offspring with Judith, and who was subsequently married to Joseph Attard, the nephew of the aforementioned Anthony Grech, without any dispensation being granted. Affinity also arises between the relatives of the woman...

[*Latin ed. p. 455*]

It is established that a marriage is invalid if the parties had carnal relations before the marriage, provided that such relations were complete, that is, sufficient to produce offspring, and provided that they were either licit, that is, arising from a legitimately contracted marriage, or illicit, namely, arising from fornication, adultery, or incest. From the foregoing, it is clear that affinity arising from a licit union extends up to the fourth degree; while that arising from an illicit union does not extend beyond the second degree, according to the teaching of Trent in Session 24, chapter 4, concerning the reform of marriage. Therefore, according to the common doctrine of the Catholic Church, and the authentic documents, which have been clearly presented in this process, it is undoubtedly established that there is affinity in the second degree of the collateral line between Joseph Attard and his uncle, Anthony Grech.

With this foundation established, let us carefully consider the positive fact, namely, whether there was, in truth, a complete carnal union, suitable for procreation, between the aforementioned uncle of the groom, Anthony Grech, and the bride of Joseph Attard, Judith, before the celebration of this marriage. In this matter, in addition to the confession made by each of the

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spouses in court, and confirmed by the sanctity of their oath, there are two witnesses, both over the age of majority, who clearly corroborate this fact, namely, Anthony Grech, the groom's uncle, who on March 15, 1888, openly testified under oath that he had indeed had improper relations with Judith, and had consummated a union with her suitable for procreation; and Joseph Azzopardi, the bride's father, who also testified under oath, as well as Reverend Father Peter Magei, to whom the bride herself recounted, a few days after the marriage.

Regarding the confession of each of the spouses, it is permissible to briefly mention the following: First, the groom on October 15, 1890, in court, under the sanctity of his oath, declared that after fifteen days from the celebration of the marriage, and cohabitation with his bride, without having produced any offspring, he was expelled from the house by her, because he had had improper relations and offspring with his uncle, Anthony Grech, with whom he again cohabited, and again had offspring. The bride, for her part...

[*Latin ed. p. 456*]

456. The inhabitants of Malta often hesitated to confess their sins; on the 15th of the month, in court, she declared that she preferred to remain in the state of prostitution rather than seek the validation of her marriage. However, the father of the bride confirmed all of this with his testimony. From these words, it is clearly demonstrated that Judith Attard, before entering into marriage, not only had dishonorable relations, but also had children by a man, namely, by her husband Joseph Attard in the second degree of consanguinity; and consequently, it is evident that a true relationship in the second degree arises from that illicit union. I am surprised, however, that the Court of Malta permitted the silence of this uncle, and in the subsequent proceedings, expressed only the words: "the previous testimony." The Sacred Congregation of the Council, having been informed of this matter, wrote to the same Court of Malta, requesting a proper declaration, which is still awaited. Other witnesses confirmed all that had been presented. Therefore, from the testimonies of the witnesses, it is clearly established that: 1. There was carnal commerce between Anthony Grech and Judith Attard. 2. This commerce took place before the celebration of the marriage. 3. There existed a true relationship in the second degree between Anthony Grech and the bridegroom, Joseph Attard, and a true affinity in the second degree, resulting from the illicit union, between the bride and her uncle, the bridegroom's uncle. 4. A child was born from this aforementioned illicit commerce, from Judith on July 24, 1875, to whom the names Anne, Catherine, and Mary were given, who was received in the hospital of the Holy Spirit on December 16 of the same year. 5. Finally, it is established that not only the illicit commerce, but also the birth of the child preceded the celebration of the marriage, since the child was born, as I said, on July

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24, 1875, and the marriage was celebrated on January 9 of the following year, 1876. This illegitimate child, finally, died in the fortress of Musta on January 21, 1877, as is clearly evident from an authentic document. In order that everything may proceed in the proper order in this matter of such importance, it is now necessary to inquire whether the aforementioned impediments di-

[*Latin ed. p. 457*]

In the matter of the requested and granted apostolic dispensation, I shall express myself briefly: for these very words are stated by the spouses themselves, who even now absolutely refuse and despise any dispensation; but above all, the Melitensis Archiepiscopal Curia testifies to us, through manifest evidence, that no dispensation was requested or obtained, and this is expressed in the following words: "Having examined the letters of the Sacred Congregation dated January 25, 1891, by which it was ordered to proceed with the process in this great Episcopal Court, concerning the alleged nullity of the marriage of Judith Azzopardi with Joseph Attard, celebrated on January 9, 1876, in the Archpriestal and parochial church of Terra Musta in this diocese. Having seen the petition presented to us, in which it is stated that, before the celebration of this marriage, she had illicit relations with Anthony, the aforementioned Joseph Attard's uncle, from which she even conceived a child, and that they had not obtained a suitable dispensation from the Holy See before the celebration of the marriage. Having considered the repeated solicitations of Judith Azzopardi towards Joseph Attard, and the arguments of the defender of the marriage for the declaration, as mentioned above, of the nullity of the marriage in question. Having duly examined the sworn testimonies of the witnesses presented: it is established that there were dishonorable relations between the aforementioned Judith and Anthony Grech, the uncle of the aforementioned Joseph Attard, from which, before the celebration of the marriage, on January 9, 1876, as mentioned above, Judith gave birth to a child named Anne on July 24, 1876. The degrees in the genealogical tree, as they say, are clearly established, namely the first and second degrees of consanguinity between Anthony Grech and Joseph Attard, and consequently the second degree of affinity arising from the illicit union between Joseph Attard and Judith Azzopardi, considered spouses. Finally, it is established from the documents presented that this affinity was indeed contracted before the celebration of the marriage, and that, meanwhile, the aforementioned Joseph Attard and Judith Azzopardi contracted marriage without a dispensation from this impediment. Having considered all of these things, and others of legal force..."

[*Latin ed. p. 458*]

"We have examined the documents, and we declare that the marriage

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begun on January 9, 1876, in the parish church of Terra Musta, between Joseph Attard and Judith Azzopardi, is null and void, entirely and without exception." This judgment appears to us to be confirmed by the facts presented thus far, and therefore we believe it is necessary to consult with the Most Holy authorities regarding a declaration of nullity in this case. Indeed, serious reasons seem to demand this; namely: 1. the alienation of the souls of the parties; 2. the spiritual benefit of both spouses; 3. the moral impossibility of compelling the same spouses to accept an apostolic dispensation. The Supreme Pontiffs, from ancient times, having seriously considered these matters, have granted indulgences for the sake of promoting the spiritual and temporal well-being of others. Therefore, as Coscius writes in *De Separatoris*, book 3, chapter 2, paragraph 106: "It is the duty of the Supreme Pontiff to provide such a remedy for the peace and salvation, both temporal and spiritual, of the spouses, to remove the occasion of sin, and to prevent the perils to the souls of the faithful."

OPINION OF THE CANONIST. The matrimonial cause presented to me, says the consultant, appears to present either no difficulty or a minor one. There would have been no reason to present it, unless the defender of the matrimonial bond, appointed by the Bishop, having found no argument to defend the validity of the marriage, had appealed to the Holy See. Therefore, I believe that this marriage was invalid from the beginning, and that there is no place for its revalidation. It is necessary, first of all, to refute the single objection that I was able to extract from the documents of this cause, says the consultant. I say "single," because the defender of the matrimonial bond found no other, nor could he find any. He affirms that the marriage was valid, although there was an illicit union beforehand, because the contract was made in good faith, and there was no suspicion or doubt, on the part of the contracting parties, of any impediment. However, I am surprised that he has failed to add sufficient strength to this rather weak argument, by pointing out that the impediment of affinity arising from an illicit union is established by ecclesiastical law, and therefore loses its force among those who are ignorant of it. But he did not wish to insist on this argument, and he considered it better to appeal to the Apostolic See, so that matters might be improved.

[*Latin ed. p. 459*]

To avoid a further expense of 49 gold coins, and for a more certain and valid outcome, it is better that the invalidity of the marriage be declared. He did not wish to delay this matter unjustly, for he knew that impediments that nullify a marriage always produce their effects, even if they are unknown, provided they have not been introduced and ratified as a punishment, but rather to remove and eliminate any shadow of impropriety. Thus, they operate like irregularities, which can also affect those who are unaware of them, and who suffer from a notable defect in relation

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to the law contemplated by canon law. Among the Doctors, there is disagreement regarding the impediment of a crime, whether it is incurred by one who is ignorant of it, and this disagreement has recently been rekindled with new vigor. However, even if the opinion is accepted that an unknown impediment of a crime does not invalidate a marriage, this is not relevant to our case, since the specific circumstances of the case presented to this Congregation are different. Having removed the difficulty that the defender of the marriage raised, it now remains to be seen whether Judith truly and perfectly consummated her marriage with Anthony Grech, with whom she contracted an affinity through Joseph, before entering into the marriage. For it is established by the genealogical tree that Joseph is Anthony's nephew through his mother, and therefore, in a matter so clear and evident, I do not believe it is necessary to delay further. For Anthony Grech is the brother of Margaret, the mother of Joseph Attard. Therefore, if Judith had intercourse with Anthony, she would have become related to Joseph in a degree that invalidates marriage. We are now at the crux of the matter. Furthermore, the question is not whether Judith had intercourse with Anthony; nor whether it was perfect, and whether the mingling of seed occurred, if the mingling of seed is necessary as required by St. Thomas (3 p. q. 55 a. 4 ad 2), with the agreement of Zacharias, lib. VII, 2, v. 3 q. 1, n. 16, since a child was born; but whether the intercourse occurred with Anthony, and whether the child born from it should be attributed to Anthony, and not to a third party. Moreover, any proof is not sufficient, but that which produces moral certainty, especially because, as Gasparri says, here we are not dealing with a marriage that is simply being prevented, but with one that has already been contracted, which is indissoluble by divine law. Therefore, in such a matter...

[*Latin ed. p. 460*]

460. It is the practice of this Holy Congregation, as the esteemed author notes in *Tractatus de Can. Matrimoniali*, 1, No. 686, to require arguments that provide moral certainty when dealing with serious matters. The witnesses, however, must be of the majority age, as is stated in the Letters 1, concerning consanguinity, and following sections, as well as in chapter 17, concerning witnesses and testimonies. Indeed, Joseph Attard affirms, under oath, that Judith had illicit relations with Anthony Grech, her maternal uncle. Judith herself does not dare to deny these relations, but in her pitiable petition presented to the Melitense Curia, she admits to the illicit relations, adding that her mother was also involved in Anthony's actions. Thus, Anthony had complete and consummated relations with Judith before she celebrated her marriage with Joseph. Therefore, Joseph was related to Judith, and without an apostolic dispensation, he could not lawfully enter into marriage with her; meanwhile, the essential dispensation is lacking. Perhaps someone might say that Judith's testimony is suspect and of no

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value, given her assertion. For, a woman of bad character does not hesitate to reveal her own wickedness, because she ardently desires the dissolution of her marriage, so that she may indulge in a freer life, even if separated from her husband in terms of the bond. Indeed, she does not fear to add that she would rather practice prostitution than return to her husband and restore the accustomed way of life. This disposition of mind, conceived by an unchaste woman, abundantly demonstrates that Judith is prepared for anything, even to utter sacrilegious lies, as long as she obtains what she dishonestly desires. Therefore, what credence does she deserve? Is not Judith's testimony, even though confirmed by an oath, at least doubtful? If Judith's testimony is considered, as it appears, and all that is added to suggest that it is true is taken into account, it must certainly be considered deceitful, and no attention should be given to what is uttered by a dishonest woman. However, it will not be judged as fraudulent or false, if we consider what Judith has done. After fifteen days from the beginning of the marriage, Judith abandoned her home and marital bed.

[*Latin ed. p. 461*]

MELEVITANA 461: The reason that compelled her to make this decision, which is unsuitable for execution, is not certain, at least not openly; but we can infer from her actions. After leaving Joseph, she went to the house of Anthony Grech. Why did she not go to her family home, as would befit a young woman of good morals, mindful of her father? Why did she not go to her parents to seek their protection? Why did she prefer the house of Anthony? There must have been some reason for this. And I find no other reason than that she was held captive by the shameful bonds of love with Anthony. For nothing happens without a cause. And if we do not admit that she was drawn by Anthony's love, the decision of Judith is incomprehensible. This circumstance moves me the most, and if I did not know it, and did not extract it from the records, I would even declare Judith's testimony to be false, even if confirmed by oath, and I would consider it to be of no importance whatsoever: but, having noted this circumstance, I judge it to be true, and I believe it should be admitted. Indeed, it is gathered from her offspring that Judith entertained dishonorable affections before she married Joseph Attard. But who is the father of Judith, the mother? We proceed without divination, since it is morally certain that Anthony Grech is the father of the girl. Both Joseph and Judith testify to the union that took place, but others also affirm the same, and they are witnesses worthy of trust, and alien to falsehood. The testimony of the father deserves all the more credence, since he is of greater age than all others. However, the difficulty that must be overcome, which can be derived from chapter 22, concerning Witnesses, and attestations, is that the testimony of the mother is considered suspect, and therefore should not be admitted to some extent. Now, if in law the father and mother are equal, it follows that the testimony

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of both can suffer from the same defect, and if the testimony of the mother is sometimes excluded, there is no reason why the testimony of the father should not be subject to the same exception. Rather, I have presented the difficulty as an exercise, and to provide an opportunity...

[*Latin ed. p. 462*]

462 "MELEVITANA desired to procure a better outcome for herself," as is evident from the force of the arguments, which are gathered from the testimony of the father. Meanwhile, the difficulty is dissolved by the very subject matter, where it is stated that, in that particular case, Alexander III judged the mother's testimony to be suspect, and not to be admitted to any extent. For there was involved a considerable advantage that the daughter could obtain from the testimony of her mother, which was contrary to her; whereas, in this case, the father could expect no advantage, either for himself or for his daughter, since his testimony would bring infamy upon both himself and his daughter. Therefore, there is not the same reason in either case. For in one case, the mother could be compelled by the prospect of advantage to give testimony; whereas, in the other case, the father, out of natural love for his daughter, and to prevent her from being marked with the same infamy, ought either to have remained silent concerning her conduct, or, if he were moved by the prospect of advantage, to have spoken differently. These things clearly show that Judith had an illicit relationship with Anthony Grech, and therefore, the impediment of affinity had been contracted by Judith, so that she could not enter into marriage with Joseph Attard without an apostolic dispensation. Given these circumstances, if the parties, who are validly joined in marriage, would not refuse a dispensation from the impediment that would validate the marriage, it would be necessary to consider it. But both parties refuse to seek a dispensation. Joseph, indeed, does not wish to keep Judith with him, because he has experienced her infidelity, and he cannot hope that her morals will change. Judith, on the other hand, whose life and conduct are pleasing to her; all the more because, being ill-behaved, she is now without affection, and without a heart, so that she completely rejects the accustomed ways of life. Therefore, nothing remains but to declare the marriage invalid.

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE, BY OFFICE. The ecclesiastical court granted Judith's wishes, the defender said, and this is supported by eminent theologians and canonists. But their opinion is based on very fragile evidence. For the judicial records are either entirely lacking, or are so full of flaws that nothing certain and definite can be drawn from them.

[*Latin ed. p. 463*]

MELELEANA 463 For, indeed, the true secretary considered it superfluous to write down everything that was done and said in the trial, but

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inserted one thing or another, as it seemed good to him. And he did not show himself mindful of the duties of his office, but rather acted as an enemy of the sacrament. For example: The defender, noting the difficulty of summoning Joseph to the episcopal court, states that he received a confession from Joseph himself in that court on October 25, 1890, and presented it on June 19, 1891. I ask, how could the defender of the marriage, whose duty it is to be present at each act of the investigation, have accepted a confession from Joseph Attard given on October 25, 1890, that is, seven months before he himself assumed the office of defender of the marriage? But instead of showing concern about these matters, the defender of the marriage should have reminded Joseph of his obligation to go before the judge, so that he might clearly declare before him whatever he knew concerning the validity of the marriage, and, as long as the alleged impediment did not exist or had been removed, he should have resisted the annulment of the marriage out of a sense of duty. Equally reprehensible is the negligence with which he examined so few witnesses: in such judicial proceedings, the testimony of a witness is required, to whom Joseph Azzopardi refers. Joseph Azzopardi should certainly have been called to explain the cause of his knowledge; that is, it should have been inquired how he knew of the illicit actions of the daughter, "as the previous testimony" indicates; and what nature those actions were. Furthermore, the aforementioned Peter Magri should have been called to testify in court. In order to know whether the alleged impediment of affinity existed at that time, both spouses, and the seventh in line, as well as the parish priest of the spouses at that time, and all others who might have something to say relevant to the matter, should have been subjected to a formal examination, according to the instructions of the Sacred Congregation of the Council of Trent of August 22, 1840. With these observations in mind, the purpose is to weaken [the case].

[*Latin ed. p. 464*]

464. MELEVITAN A. A Doubt. Whether the sentence of the Bishop of Melevitan, dated October 24, 1891, should be confirmed or annulled in this case.

RESOLUTION. The Sacred Congregation of the Council, after deliberation on September 9, 1893, decided to respond: With prior dispensation of the acts, the sentence is to be confirmed.

CIVITAS CASTELLI. Dispensation for Marriage. September 9, 1893. Session 24, chapter 5, Concerning reforms in marriage.

Mathilde Tomassini, who had barely reached the age of seventeen, happily married Decio Tocchi, a man from Perugia, in the Cathedral Basilica of Civitas Castelli, according to the rites of the Holy Roman Church, on June 7, 1886. Mutual love and the harmonious nature of the couple seemed to portend a happy outcome for this marriage; but the contrary occurred. For the woman, as she herself asserted, after the first attempts at consummation

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of the marriage, which were repeated in vain for two consecutive months, began to feel aversion towards her husband, whom she always considered to be impotent for the duties of marriage. Nevertheless, she lived with him until September 18, 1888, when, leaving her marital home, she went to her father, who was living in Tiferni. She then appealed to the civil court, and before it, accusing her husband of impotence, she requested a perpetual separation. The husband, who had borne the woman's departure with a saddened spirit, and had spared nothing to induce her to return to cohabitation, vigorously opposed this judicial petition before the same court, which also ordered an examination of his person and appointed three experts for this purpose. He fought for almost a year; but finally, after certain agreements reached with his wife, he consented to her petition.

COMPENDIUM OF THE FACTS.

[*Latin ed. p. 465*]

The city of Versailles contains 465 parishes, and the second case proceeds as follows: a man, through his own fault, has caused a separation; and therefore, he has no right to the dowry or other things that might arise from the marriage contract. However, the tribunal, recognizing the validity of this voluntary separation, issued a relative judgment of approval on December 4, 1890. Two years after this judgment of separation, Mathilde appealed to the Most Holy [See], earnestly requesting a dispensation from the marriage, which had been validly contracted but not consummated; and the Bishop, to whom the suppliant's petition had been delegated according to custom, initiated a process through a delegated judge, who first summoned the woman herself to be examined, who, under oath, asserted the lack of consummation of the marriage; then, he questioned seven witnesses, who, also under oath, testified in favor of the same woman; and finally, since the man refused to appear in court, he ordered that a physical examination of the woman be performed by two doctors, who, having completed their task, in the presence of a midwife and after a preliminary bath of warm water, unanimously declared the woman to be a virgin, under oath.

Synopsis of the Argument. He who undertook the defense of the woman, after recounting the aforementioned facts, divided his argument into two parts, the first concerning the lack of consummation of the marriage, and the second concerning the reasons for granting a dispensation. And beginning with the first point, he argues that the contumacy of one of the spouses cannot prejudice the other, since it is clearly established elsewhere that the marriage was not consummated. And he states that this is certain, based on the practice of this Sacred Congregation, citing as examples the following: Spoleto, Matrim., December 20, 1873; July 8 and September 2, 1876; Trieste, Matrim., June 10, August 5, and December 16, 1876; and Versailles,

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Matrim., December 10, 1892 – in which cases a dispensation was granted from a marriage that had been validly contracted but not consummated, even though one of the spouses was contumacious.

DEFENSE OF THE WOMAN. Acts, Vol. XXVI, page 308.

[*Latin ed. p. 466*]

466. The Advocate further argues that this type of practice should be strongly emphasized in this case, because there is such an abundance of evidence that there can be no doubt whatsoever about the lack of consummation of the marriage. Firstly, Mathildis herself, not only asserted in the petition for the dispensation that the attempts at consummating the marriage had failed due to the husband's impotence, and that she therefore remained in the state of virginity, but also swore in the judicial examination that the marriage had never been consummated due to the husband's impotence, and that she had been separated from her husband precisely because of this impotence. The Advocate continues, this confession should be considered highly credible, due to the exceptional integrity and piety of the woman, which have been universally praised. Indeed, the Bishop commends Mathildis's petition because of her honesty, about which the Parish Priest and others, both clergy and laypeople, testify. Furthermore, the Advocate investigates the cause of the lack of consummation of the marriage, and believes that it can only be attributed to the husband's impotence. He supports this view with the testimonies of witnesses, who are all worthy of the utmost trust. Moreover, the husband himself, in two letters, one addressed to his wife and the other to Rosa Roti, a relative of his wife, openly confesses his own impotence for marital duties. Therefore, the Advocate argues, if the husband were to claim that his impotence was temporary and not permanent, he would nevertheless always be compelled to admit: that this very impotence preceded the marriage and prevented the consummation of the marriage. It would not be believable that, if he had ever been able to fulfill marital duties, he would have kept it secret. Furthermore, he himself would not be free from deceit, when, striving to suggest that his impotence was temporary, he attempts to imply that the same impotence could easily be cured, or even has been cured, by medical means. For, from the sworn testimony of the woman, it is clearly established that he himself, from the time of their marriage,

[*Latin ed. p. 467*]

In the city of Grado, the woman initially subjected herself to medical treatment for one month, but without any positive result. To support this, the husband accuses her of contumacy in the present judgment, from which, he believes, a serious indication of impotence arises. To further elevate this indication to a degree of certainty, attention must be paid to the proceedings that took place before the secular tribunal in the matter

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of separation, and which have already been briefly mentioned in terms of facts. The husband, who was summoned to court solely because of the wife's alleged impotence, unable to deny the accusation based on the appearance of his own body, sought refuge in a pitiful plea, easily asserting that his impotence could be cured. But even this availed him nothing; for, after a year had elapsed since the decree by which the tribunal ordered that his body be examined by three physicians, he was finally forced to acknowledge that the separation should take place due to his fault, although this was to his detriment and prejudice, both in terms of reputation and in relation to property. Thus, he was compelled not only to restore the dowry and to pay the interest accrued in the meantime, but also to forfeit all the profits derived from the dowry, and those that could have been obtained for the sake of the marriage. However, the advocate insists that two physicians, at the order of the judge, examined the woman's body and, under oath, declared that she was a virgin, according to the form of Instrument S. C. from the year 1840. With these matters brought to light, the husband is confident that he has achieved a complete victory regarding the first part of his thesis; and therefore, after adding a few comments on the authority of experts, he turns to the second part of the question, which concerns the reasons for granting a dispensation. He claims that the first reason for requesting a dispensation is the wife's extreme aversion to her husband, so that no hope of reconciliation exists. The second reason for the dispensation is the husband's impotence and the serious doubt regarding the nullity of the marriage due to the permanence of this impotence.

[*Latin ed. p. 468*]

468. THE CASE OF THE CASTLE. Finally, the danger of incontinence led to the case being brought before the court, when the woman frankly told the judge that she was seeking a dispensation to avoid the dangers of incontinence.

OBSERVATIONS ON THOSE WHO DEFEND THE SACRED BOND. The defender of the sacrament maintains that the present marriage is either so firm that it cannot be weakened by any human power, or so deeply rooted and invalid that it cannot be remedied by a dispensation, but only by a declaration of nullity, and this is what ought to be done. For it is well known that a dispensation is considered an extraordinary remedy, while a declaration of nullity is considered an ordinary remedy in the eyes of the law. Indeed, it is established that extraordinary remedies should not be used as long as ordinary remedies are available.

Furthermore, the defender of the bond continues, Mathildis and Decius, both young and flourishing in their youth, entered into marriage with mutual affection, and for two years and four months they lived together in the same bed, indulging in conjugal relations to the best of their ability. Therefore, either the marriage was consummated, or Decius is truly suffer-

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ing from a lack of virility. And this lack of virility, without a doubt, would be permanent, since not one of the witnesses says that Decius is a man of bad morals or affected by any temporary illness; rather, the woman herself believes that he suffers from natural impotence, a belief that is supported by Mathildis's brother and father.

However, the advocate argues, it is not appropriate to consider a dispensation in this case, either because the judicial proceedings were completed in Tifernum, when they should have been completed in Perugia; or because Decius was born in Perugia, and has his family ties in Perugia. The woman, on the other hand, belongs to the jurisdiction of her husband. Indeed, any reasonable person can see how absurd it is to conduct an investigation in Tifernum, when the crux of the matter, around which the entire controversy revolves, is Decius, who, at the age of thirty years, is so well established, that even the stones of Perugia know what he is capable of in the marital act, while only an angelic spirit in Tifernum could know.

Furthermore, even if these things were overlooked, the arguments on which the woman relies are very weak, as Sánchez de Matrimonio, book 2, demonstrates.

[*Latin ed. p. 469*]

CITY OF CASTELLI, volume 469, page 45, number 33 - there - "The confession, since it is in favor of the confessor, proves nothing." However, concerning Decius, it is said that he is not at all to be trusted, having confessed the incompletion of the marriage. Firstly, it is not certain that the two letters of Decius, which the actress presents, are genuine. Secondly, even if they are admitted, it does not necessarily follow from Decius having fully satisfied Maud that the marriage did not take place. Furthermore, concerning the testimony of the "seventh hand," it is noted that all the witnesses are lacking from the husband's side, and then it is urged: "Instruct. S. C. C. year 1840, in which it is read: 'Proceeding will be made to the examination of the seventh hand, that is, seven relatives from each side, according to the form of the text in chapter Litterae Vestrae, concerning frigidity, and bad [health].'" To this, Sánchez de Matrimonio, book 7, disputation 108, number 11, adds: "But this oath of the seventh hand of relatives is to be taken in such a way: that if either spouse confesses an impediment, seven blood relatives of that spouse swear; or, if they are lacking, seven neighbors of that spouse; and thus there must be fourteen." Moreover, the Defender does not consider valuable the examination of Maud's body performed by two experts in the healing arts, Gurrieri and Fabbri, because, according to him, the doctor Gurrieri is not free from bias, since he had already explored Maud's body without any order from a judge and had revealed his own feelings. Finally, the Defender states that Gurrieri and Fabbri examined Maud's body so incompletely that they could easily be deceived, as is noted in Nemausen, dispensationes matrim., § 6 and following (1). After these

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points, the Advocate discusses the reasons for granting a dispensation, and concludes that they must be just and very serious, citing Leuren, de form. eccles., book 4, question 277. Furthermore, he continues, on the subject, that if any reason for granting a dispensation exists, it is only the asserted impotence of the husband. (1) This was reported in this volume, page 321.

[*Latin ed. p. 470*]

470. Regarding the matter of the validity of the marriage: The testimony of witnesses is consistent: for the Father and others brought before the tribunal express the same opinion. The same is declared by Francis Pecorari, priest; by Philip Pecorari, priest; and by priest Angelus Vinci. Therefore, it is neither just nor safe, the defender argues, to consider the impotence of Decius, when neither has an investigation been completed in Decius's homeland, nor has a single witness who could know the facts been questioned, nor have the physicians who claim to have administered treatment to Decius been brought to examination. If Decius is not impotent, then neither can aversion of the woman towards the man, nor the danger of incontinence, be considered; for all these things are based on the alleged impotence. With all of these things having been presented from various sides, the intention is to weaken the argument. The question is whether it is necessary to consult with the Most Holy Congregation regarding a dispensation for a marriage that is valid but not consummated in this case. RESOLUTION. The Sacred Congregation, after discussing the matter, on the 9th of September, 1893, decided to respond: Affirmative. MEDIOLAN. MARRIAGE. On December 16, 1893. Session 24, chapter 5, concerning the validity of marriages. SUMMARY OF THE CASE. Adelais Rivolta, of the place of Paderno in the archdiocese of Milan, who, being 19 years of age, on September 12, 1889, validly contracted marriage in Milan, in the church of the Holy Francis of Rome, with Antonio Belloni, aged 27 years. However, this marriage did not have a happy outcome. For, if the spouses are to be believed, they attempted marital relations for about a month without success, and in the following time, it never occurred, due to the impotence of the man.

[*Latin ed. p. 471*]

MILAN. Four hundred and seventy-one were able to complete [the process]. Therefore, before a year had elapsed since the celebration of the marriage, Adelais returned to her own home, and immediately, with the consent of her husband, she began proceedings before the civil court, in order that the marriage might be declared null, considering the husband's impotence. The civil authority, having received sworn testimony from three experts whom it had appointed to examine the body of Anthony Belloni, declared the husband's impotence to be absolute, prior, and perpetual, and on June 19, 1891, issued a judgment entirely favorable to the woman's petition.

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Two months later, that is, on August 25, 1891, the woman also instituted proceedings for the nullity of the marriage, based on the husband's impotence, before the Milanese ecclesiastical court. The court, duly constituted, began its proceedings on September 12, 1891. However, encountering difficulties, the Reverend Archbishop repeatedly appealed to the Supreme Pontiff, in whom we rightly rejoice, in order to obtain a dispensation from certain non-essential procedural formalities, which could not prudently be observed given the circumstances of time and place; and on May 2, 1892, he obtained a Rescript, by which "His Holiness, having considered all things, benignly granted that the physical examination of the woman be carried out without the court's access to the house for examination, but under the law, that both midwives and a matron, and also doctors, immediately prepare a written report after the examination and submit it to the judge; furthermore, that in order for the medical testimonies given in the civil court to be admissible for the purpose of expert testimony in the ecclesiastical process, with a dispensation from a new examination, or with an examination by only one new doctor, if otherwise it cannot be done, they should, if possible, be confirmed before the ecclesiastical judge by experts appointed by the civil court, so that they swear to the truth of the previous testimonies; and finally, that the number of witnesses be, if requested, increased." Through this Rescript, the Milanese court arranged for the husband's body to be examined by a doctor, who revealed his opinion in a written report and in a judicial examination; and the votes given by the three experts before the civil court were received and confirmed in the ecclesiastical court.

[*Latin ed. p. 472*]

472 MILAN. The husband entirely refused to submit to a medical examination, stating that it would be a grave burden for him. A Synopsis of the Discussion: THE OPINION OF A CANONIST. The Consultor stated: "This concerns the impotence of a man, which is called frigidity, and indeed, frigidity understood in its most proper sense, namely, that which consists in the fact that a man, although he may appear to have the external organs of generation perfectly formed, is nevertheless unable, at the opportune time, to erect himself in such a way that he can have relations with his wife. Anthony Belloni, according to his own words, is unable to erect, not only at the opportune time, but never. Furthermore, if we listen to Sánchez (De Matrim., I, VIT, disp. 94, n. 5), it is not a negligible sign of frigidity when a man does not desire carnal relations, nor does he feel the stimuli of the flesh. For this desire is so natural that, when it is lacking, a frigid condition is rightly presumed to exist, because it arises from the fact that the frigid lack the exciting heat for carnal relations." And this, according to Belloni's sworn confession, is also a sign present in him. Once such impotence has been admitted, it necessarily follows that it is also antecedent and certainly

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permanent, as the physician Annovazzi rightly observed, who was called upon in this case by the secular judges. And indeed, "when the impotence is natural, it is presumed to have preceded, and therefore the marriage is null." These are the words of Sánchez, L VI, disp. 103, n. 4. However, the entire question revolves around whether this impotence can truly be proven. I do not deny that the arguments of the physicians, at first glance, appear quite persuasive, and their learning seems to compel agreement with the conclusions they have reached. But I. the physicians themselves do not agree among themselves in asserting the certainty of the impotence. The physician Annovazzi, to whom the civil court entrusted the task of examining the spouses and also of scrutinizing the testimonies of two other physicians, Vincenti and Sighicetti, approached the matter with great...

[*Latin ed. p. 473*]

MILAN. 473, with learning and diligence, investigated and explained the matter: he explained each and every detail that he had observed in Belloni, as indications of impotence; he obtained a true confession from the man. Nevertheless, Annovazzi, although he considers impotence to be the most probable condition, states that, for the purpose, there are still certain elements lacking, by which the certainty of this impotence can be established. — Furthermore, 2°. The physicians are solely based on the veracity of the man's confession, and, having already supposed the truth of the fact, they attempt to explain this impotence and to indicate its cause; but the very length and subtlety of their dissertations seem to demonstrate that they have not been able to achieve this so easily. Why, however, is it necessary to give credence to Belloni's assertions, based on the circumstances observed? Because, indeed, what Belloni says about himself (namely, that he has never been addicted to onanism or lust) excludes other causes. Therefore, his confession is the foundation of the physician's opinion. The accounts of other physicians agree with the account of Annovazzi in that they are based on Belloni's confession. How subtle the investigation of the physicians is, is evident; for even in the case of an uncircumcised penis, impotence can be proven in them. Moreover, the fact that the man is not affectionate, but of a harsh and inhumane nature! As for the depositions of the wife and the *septima manus* (seventh hand, i.e., witnesses), it cannot be denied that they present the appearance of truth. However, certain procedures prescribed by law are lacking, namely, the oath of the *septima manus* of relatives, swearing that they believe the wife to be speaking the truth, and the examination of the woman's body. It is true that, in this case, the examination of the woman's body by the physician delegated by the Archdiocesan Court was superfluous. Nevertheless, let us say, with Sánchez, *lib.* VII, *decr.* 107, n. 1, "that the judge must always strive to demand superfluous proofs of impotence rather than to diminish them in any way; and that he must employ every precaution that can be used by all

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means of proof." For the question of the dissolution of marriage is a very serious matter, and one in which the greatest danger to the soul is involved, either in dissolving a valid marriage or in approving an invalid one. Also,

[*Latin ed. p. 474*]

474 MEDIOLANEN. Because in other cases, the judge must examine the actions, therefore, it is more important in this case, where a greater danger is involved. The mere examination of the body may not be decisive, we grant, but when taken together with other indications, it could undoubtedly shed some light on the matter for the judge. Such an examination would provide an opportunity to ask questions that would verify the truthfulness of the spouses. Therefore, until those things which are prescribed by law are done, I say in this case, doubt will always remain. But, "when there is no doubt about the prior existence of impotence, but rather doubt is raised as to whether it is true impotence, and whether the marriage has been consummated or not; and, with sufficient diligence, this doubt cannot be resolved: I believe that in this doubt, one should presume in favor of the validity of the marriage, and that it cannot be dissolved once begun." I am led to this conclusion because, since everyone is naturally presumed to be capable, the one asserting true impotence, when that is in doubt, bears the burden of proving it, and until it has been certainly proven, the presumption is in favor of natural capability, and consequently, in favor of the validity of the marriage. Furthermore, I believe that in this doubt, the presumption should stand in favor of the marriage. When it is established that the contract exists, and only doubt is raised about its impediment, which is never presumed. Sánchez I. VII, d. 103, n. 3. Therefore, regarding the doubt: Whether it is established in the case of nullity due to the impediment of impotence that the marriage is not consummated, I believe the answer should be: No. OPINION OF THE THEOLOGIAN. Since there is a natural inclination towards the procreation of offspring, through which the nature of the species is preserved, B. Thomas, supplement, Q. 41, 3, and this preservation cannot be achieved without carnal union between man and woman, therefore, as the Angelic Doctor follows, in order that they may render what is due to each other, legitimate spouses are obligated by a precept, according to the Apostle, "Let every wife have respect for her husband as for the Lord; and let every husband have respect for his wife as for herself" (Ephesians 5:22). Therefore, the mutual exchange of bodies, with the obligation of rendering what is due, is essential in marriage, and consequently, if one is, from birth and by a prior bodily defect, incapable of rendering what is due, the marriage is contracted in vain and invalidly, which is unanimously proclaimed and taught in both forums. From this, it

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follows that the marriage was null and invalid.

[*Latin ed. p. 475*]

MILAN. In the year 475, a marriage appears to have taken place between Anthony Belloni and Adelaide Rivolta, both from the archdiocese of Milan. Impotence, as everyone knows, is the inability to engage in generative copulation. If this inability exists in one of the spouses beforehand and is incurable, it constitutes a dispelling impediment, which, if clearly and certainly proven, renders the marriage null and void, both according to natural and divine law, provided that the impotence is diametrically opposed to marriage, whose essential purpose is the procreation of offspring. In the present case, it appears that Anthony Belloni suffers from impotence: 1. from the confession of the spouses, 2. from the testimonies of witnesses, 3. from the judgment of experts. All of these were called to testify under oath in a judicial process. First, Anthony Belloni appeared. It should be noted that Anthony Belloni is a rustic man, devoted to the friend Bacchus, as he himself said, and not particularly inclined towards women. Whether young or adult, he has always behaved with the utmost indifference towards women, so that even intimate contact with them has not elicited either the erection of his member, nor pleasurable sensations in it, as he confessed to Doctor Vincenti; this clearly manifests a frigidity, and therefore, he readily affirmed that he loves wine more than women. From these circumstances, as physicians know, this aversion to women can delay and impede carnal intercourse. When questioned as to why he had withdrawn himself from his bride, he responded without hesitation that it was due to my impotence for the conjugal act; a response that is confirmed by other reasons as well. But when he speaks more openly with Doctor Annovazzi about his impotence, I omit that confession, lest I be importunate to chaste ears: these things suffice. For even the bride agrees perfectly with what the groom has said, and no contradiction or suspicion of collusion is found between them. After Anthony, Adelaide Rivolta was called, who, like the groom, recounted that she had often attempted intercourse, but in vain and fruitlessly, because the man was unable to either ejaculate semen or erect his member: therefore, she affirmed that she is still a virgin. She adds that...

[*Latin ed. p. 476*]

476. In Mediolanum, vero, interrogata, Adelais affirmavit quod Anthony semper ei maltrattamenti avesse inflitto, che non avesse mostrato alcun segno di amore coniugale, ma che fosse stata trattata con asprezza, minacce, disprezzo e con occhi torvi. Adelais ritiene che questa asperità nel marito derivi dall'impotenza, di cui era consapevole e che sapeva essere incurabile. Per questo motivo, fu costretta a tornare nella casa dei suoi genitori e, da lì, ad adire il tribunale civile per ottenere la separazione, che ottenne legalmente. Pertanto, dalla confessione di entrambi i coniugi sembra potersi

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dedurre che nel marito esistesse una completa incapacità di avere rapporti coniugali, e quindi si dovrebbe giudicare a favore della nullità del matrimonio: poiché la consegna del corpo per l'atto coniugale è essenziale per l'essenza del matrimonio, chi non è in grado di compierla contrae un matrimonio invalido, poiché si obbliga a fare ciò che non può compiere. Tuttavia, la confessione dei coniugi, o dei fatti, sebbene concordante, una volta pronunciata dopo l'inizio del matrimonio, non ha immediatamente valore probatorio davanti al tribunale, ma anzi, come insegnano i Dottori, essa di per sé e di per sé è priva di ogni forza, e quindi deve essere esaminata insieme ad altri tipi di prove. Pertanto, saranno ascoltati i testimoni, e saranno consultati esperti di sana dottrina. Sono stati convocati a giudizio testimoni idonei, che, sotto giuramento, hanno promesso di deporre la verità. Tuttavia, trattandosi di una questione così nascosta, come l'impotenza, i testimoni hanno deposto solo su ciò che hanno udito e sulla fama. Alcuni dei primi testimoni hanno dichiarato di aver appreso direttamente da Belloni che era incapace di avere rapporti sessuali, e che, in tal modo, gli aveva chiaramente manifestato il suo difetto, tanto da sembrare aver dissipato ogni dubbio; allo stesso modo, il Testimone VIII, Aniceto Ghezzi, ha confessato con chiarezza la sua impotenza. Anthony sarà accusato di falsità in una questione che gli uomini più modesti avrebbero vergognato di manifestare? Inoltre, altri testimoni confermano ciò che hanno udito: la madre di Anthony, i genitori della sposa Adelais, e altri amici, che hanno reso Anthony noto per questo difetto. Inoltre, i testimoni aggiungono che Anthony mostrava antipatia, o repulsione, nei confronti della sposa, pur essendo, altrimenti, un uomo rispettabile e onesto, secondo la loro conoscenza della sua persona.

[*Latin ed. p. 477*]

IN MILAN. It has been shown that Antonii was entirely without the use of his marital rights, and that he subjected his spouse to grievous vexations. Furthermore, certain witnesses testified regarding his reputation; in the first place, the local parish priest, who testified that in that town it was universally held to be certain that the marriage had been annulled by the civil court on the grounds of impotence, and that the Holy See was now considering whether to declare the sacrament, which had never been, null and void for the same reason. Thus, almost all those who testified believed that the spouses were telling the truth. Having considered all of these things cumulatively, and if, according to what has been alleged and proven, a judgment is to be made, then, based on the confession of the spouses, the testimony of the witnesses, and the reputation arising from these things, a moral certainty seems to exist regarding the impotence of Antonii Belloni, and that, consequently, the marriage was contracted with a vitiating impediment. But not only is this proposition proven morally, but also physically, namely, by the judgment of experts. As we have previously

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noted, the votes of the physicians, which had been required by the civil court, were also admitted in this sacred forum, and were appended to the proceedings. Three experts in the medical arts carefully examined Antonii, his body, and especially his genital organs, and they found that these were not naturally formed, but were infected with an incurable defect, and that they were absolutely unfit for procreation; this infirmity, being from nature, is also antecedent and perpetual. Furthermore, as these same physicians observed, Antonii has a certain innate aversion to sexual intercourse and to all things pertaining to it. Thus, the three physicians, Annovazzi, De Vincenti, and Sighicetti, who testified in the civil court, from which the judgment of annulment arose. But the ecclesiastical judge, with commendable prudence, entrusted the examination of these testimonies to another expert physician, B. Nardi. When questioned as to whether he had rendered his opinion, he replied: that he had carefully and thoroughly examined the body of Antonii Belloni, and that he had come to the conclusion that he was entirely impotent for the marital act, due to a defect and imperfection of the organic parts of his genitals, and that he confirmed all of this under oath. From these things, briefly enumerated, it can be gathered that...

[*Latin ed. p. 478*]

478 MILAN. I judge that the marriage between Anthony Belloni and Adelaide Rivolta is null and void, since the contract was made with a vitiating impediment of antecedent impotence in the man, which the confession of the spouses, the testimonies of witnesses, and the judgments of expert physicians clearly, if I am not mistaken, demonstrate both morally and physically. Nor does anyone object that the physical integrity of the woman was not examined: for, since the man's impotence has been clearly demonstrated, such an examination is superfluous, and we know that the sworn confession of the spouses, accompanied by the testimony of seven relatives, is sufficient to prove the woman's integrity without any physical examination, as has been admitted by this Holy Congregation. Cf. Acta S. Sedis in Tarnovien., vol. XVIII, 242. OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE, BY ORDER. On September 12, 1889, Adelaide Rivolta, being 19 years of age, contracted marriage with Anthony Belloni, who was 27 years old. The newlyweds, after having lived together for a year and having engaged in conjugal relations more than once, separated by mutual consent, the man declaring himself incapable of fulfilling the marital act. However, this is not proven. Furthermore, Claudius Annovazzi, a physician well versed in medicine, one of the four experts who examined Anthony, after mature deliberation, concludes: Can an expert, under oath, after having made the necessary examinations, affirm that Anthony Belloni suffers from manifest genital impotence? And, if that is true, can the expert assert that this impotence of the man renders the marriage incurable and, therefore, perpetual? I say, continues the expert, that I cannot deny that

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Anthony suffers from impotence; but I cannot assert that such impotence is manifest. Science cannot assert that it is evident. The expert concludes that the case of Anthony Belloni presents a strong basis of probability, but it is not one that can be affirmed with certainty.

[*Latin ed. p. 479*]

MILAN. 479, with sworn testimony. Finally, it cannot be denied that there is the greatest probability of this impotence, which offends the requirements of science. Nor am I moved by three other learned physicians who declare themselves certain about Anthony's impotence. For they so strongly disagree with the archpriest Annovazzi, to the extent that, as appears from their lengthy accounts, they consider Anthony's own narratives to be fabricated, possibly devised for the benefit of the case. The testimony of a seventh witness is of little consequence. For no one, before the celebration of the marriage, before the separation of conjugal life, at a time when suspicion was not present, has heard anything from Anthony or from others, from which it might be rightly inferred that Anthony's genital powers are so lacking. Indeed, although it is not the ultimate duty of a seventh witness to testify about the fidelity that should be present between spouses, the judge, for some reason, has not questioned the witnesses about this matter. Therefore, I place little credence in the confession of the spouses: because, first of all, I do not see that their religion and honesty are testified to as they ought to be; and secondly, because both desire the marriage to be dissolved, and they derive an advantage from the confession of impotence. Concerning this, see Sánchez de Matrim., lib. 2, disput. 45, n. 33: (there) A confession, even if made, proves nothing in favor of the confessors. The physical virginity of Adelaide, if explored, might perhaps open a path to a dispensation regarding the valid marriage: but the moderator of this cause has not entered this province of inquiry, even though the Sacred Congregation of the Council may have prescribed it, nor has the woman absolutely denied it. Since these things are so, without delay, I humbly request that the written question "Does it appear that there is a nullity of the marriage in this case?" be answered with "NEGATIVE." With these and other considerations, the purpose was to diminish the doubt concerning whether there is a nullity of the marriage in this case. RESOLUTION. The Sacred Congregation of the Council, after deliberation on the tenth of December, 1893, decided to respond: "It does not sufficiently appear."

[*Latin ed. p. 480*]

480 MILAN. AND FROM WHICH CONCLUSIONS ARE DRAWN. I. Since the question of the dissolution of marriage is a very serious matter, it is necessary that the judge be presented with proof of impotence, in order that the dissolution of the marriage may be considered on this ground. II. Presume in favor of the validity of the marriage, and that it cannot be

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dissolved once begun, when there is doubt as to whether true impotence exists, and whether the marriage has been consummated or not; and this doubt cannot be overcome, after due diligence has been applied. III. Every man is naturally presumed to be capable; and therefore, he who asserts true impotence, when that is doubtful, bears the burden of proving it. IV. With regard to this matter, until such impotence has been clearly proven, it must be presumed in favor of natural capacity, and in favor of the validity of the marriage, if it is established that the marriage has been entered into, and there is doubt about its impediment, which is never presumed.

RECITALS OF THE SACRED CONGREGATION. On December 16, 1803. Through summary reports, the parish priest of the place of Celano, in the diocese of MARSORUM, approached the Most Holy Congregation with a humble petition, relating and requesting the following: For four months now, since the church of Celano, in the city, has been restored, two images of holy martyrs have been discovered, depicted on the wall, towards whom the piety and devotion of the faithful increases daily, because graces and miracles abound. From these, religious service is demanded, and at least one Mass should be celebrated daily. The Bishop, having been asked for his opinion and information, and especially to report on the number of priests present in the aforementioned town, wrote the following: In the town, which is called Celano, with a population of 8000 inhabitants, there are ten priests serving.

SUMMARY OF THE FACTS.

[*Latin ed. p. 481*]

In MARSORUM, 481 different churches are subject to [the jurisdiction of] the bishop: the church of St. Roch, in which sacred images have been found, lacks all religious service; therefore, the Ordinary concludes that it seems permissible to grant the orator [permission] to celebrate Mass on two feast days, so that some religious service may be provided to the aforementioned church.

Synopsis of the Discussion. In the Benedictine constitution, it is stated that there are two reasons by which repetition of the Holy Sacrifice is legitimately permitted: firstly, when one priest governs two distinct and separate parishes, or two populations so separated that one of them cannot in any way attend the Mass celebrated by the parish priest due to the distance, nor is there another priest who can provide for the needs of the other population; secondly, when there is only one church in which Mass is celebrated, to which the entire population cannot come together at the same time. Furthermore, in cases of equal importance, in which, however, the true need of the people remains, the repetition is undoubtedly permitted and does not require demonstration.

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GRACE SEEMS TO BE DENIED. However, in the present case, this reason of necessity seems to be lacking, since the request for an indulgence is made solely to increase the worship of two martyrs and to foster the piety and devotion of the faithful towards the sacred images, recently discovered. However, it must be remembered that in the Glossa in cap. *Consuluisti* in the words *De celebr. missae*, it is added to the necessity, the utility, and that either of these is sufficient for one priest to celebrate Mass twice on the same day. Nor does Benedict XIV absolutely deny this in the aforementioned constitution, when he says: "For whatever may be the title of utility, those who admit it, explain and understand it not of the utility of the celebrant, but of the one who hears Mass." Moreover, since the necessity of hearing the Holy Sacrifice is merely moral, it is clear that this necessity often does not differ from utility. If, however, in the present case, the utility is asserted by the orator, the GRACE SEEMS TO BE TO BE GRANTED.

Acts, Volume XXVI, page COCVIII, 31.

[*Latin ed. p. 482*]

482 In MARSORUM, it is for the wise judgment of the Most Reverend Fathers to determine whether a dispensation from the common law should be granted. Having considered arguments on both sides, the question was raised as to what should be answered regarding prayers. RESOLUTION. The Sacred Congregation of the Council, having reviewed the matter, on December 16, 1893, decided to respond: Negatively. PLATEN. DOUBT. On January 28, 1894, in the ORATORY of PLATEN, the Ordinary reported: Joseph Accardi, of this diocese, has built an oratory near a pagan tomb in the Mazzarini cemetery, and he has requested that permission be granted to celebrate Mass there. He stated that other similar requests have also been made, which he has not granted, because such oratories lack the necessary requirements with which public oratories should be endowed, and because such oratories are established in cemeteries without any distinction between Catholics and non-Catholics. The Ordinary continued, stating that the petitioners insist that there are oratories located near the cemeteries of noble families, in which Masses are celebrated. Regarding this matter, he asked whether those oratories established near cemeteries can be considered public oratories, and whether he can permit Masses to be celebrated there. And, furthermore, whether, even if negatively, they can obtain this permission from the Roman Pontiff. SUMMARY OF THE CASE. The discussion concerns the faculty, which was taken away by the Council of Trent, Session 22, in the decree concerning the celebration of Mass, to grant permission for Masses to be celebrated in private chapels.

[*Latin ed. p. 483*]

It is beyond doubt that chapels may be used to celebrate the sacrifice of the Mass, especially after the declaration made by this Holy Order, and by

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order of the Most Holy Pope Paul V, communicated to all Bishops on March 10, 1615, through encyclical letters, in which it was solemnly affirmed that the faculty to do so is reserved solely to the Most Blessed Roman Pontiff. However, the chapels in question do not appear to be included in this decree. Indeed, the principal sign by which a public chapel is distinguished from a private one is that it must have an open entrance on a street accessible to all, and it must be free from the control of private individuals, so that access to it is always open to everyone. Thus, the most learned Ferrari states in his *Biblia Prompta* under the word "Orator," number 101; and Monacelli says: "A public chapel, that is to say, one erected in a public place with the permission of the Bishop, is so separated from private houses that it is impossible to enter it from those houses, nor are there windows in the houses through which one can see into the chapel; and it must have free access from a public street, and must be spacious and decently adorned, and must not lack anything necessary for the celebration of the sacred rites, as was formerly prescribed by the Most Holy and Religious Congregation in the *Cincimbrien*, July 1, 1616." Formula, vol. 2, no. 32, and E. D'Annibale considers a chapel to be public if it has a door that adjoins a public street, *Summa Theologiae Moralis*, Part III, number 5; Gattius, *De Oratoriis Domesticis*, Chapter XI, number 2; De Bonis, *De Oratoriis Publicis*, number 236; even if a private door is attached to the house of a secular person. St. Alphonsus of Liguori, *Theologia Moralis*, book 6, number 357, mentions chapels, along with cemeteries, as places where these requirements are verified. For these are public places; and no one is forbidden to enter or leave. It cannot be objected that cemeteries are sometimes closed by order of public authority. For the Sacred Congregation, in *Compsana*, on August 8, 1705, when the Bishop considered it not appropriate, nor permissible, that the courtyard of the palace of the Baron of Diana Veteranorum, in which the door of the chapel had already been declared public by the Sacred Congregation on May 31, 1704, against his prohibition, could be closed at his discretion, the matter was discussed.

[*Latin ed. p. 484*]

484. QUESTION: Is the entrance to the cemetery a public way to access a chapel, or rather, should the gates that impede entry into the cemetery be removed? ANSWER: No. However, it must be remembered that, in order for a place to be considered a public oratory, it is absolutely necessary that its access be free and public. And the Sacred Congregation, in order to ensure that this condition is always observed, has the custom of prescribing that the area in front of oratories, built in private residences, must be ceded for public use, as can be seen in Savon, July 28, 1724; in N t, February 12, 1735; and in Nullius, January 13, 1620, etc. But in this matter, the opposite seems to occur, since the entrance to cemeteries is by no means free and can always be prohibited by municipal authority. Furthermore, if these chapels

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were declared public oratories, a serious spiritual detriment would arise for the faithful and for parochial rights, who, by attending the most frequented oratories on holy days, would be deprived of hearing the word of God and the catechism, and would be ignorant of the prescribed vigils and feasts, as widely noted by Cardinal Petrucci in Constit. Apostolicae Paschalis II, vol. 1, no. 69; and by Monacelli in formul, vol. 2, page 52, no. 32. Nor should we disregard what the Reverend Prelate states in his letters: generally, cemeteries where oratories are located lack the divisions required by the Sacred Canons, so that Catholics, non-Catholics, and the unrepentant are buried together. It is not unknown to me that such a burial pollutes the oratory in no way canonically, because this is not written in can. 27 De consecr., dist. 1, and we are in a purely positive matter; nevertheless, 'morally, so to speak,' it is polluted, and horror is aroused in the hearts of the pious. Finally, it must be remembered that in the City, a custom prevails whereby the Holy Pontiff grants, with many restrictions, the faculty of celebrating Mass in chapels located in cemeteries; but this is not for public oratories; and thus, all inconveniences and abuses are prevented, and the religion and piety of the faithful are promoted.

[*Latin ed. p. 485*]

PLATIEN. 485 Having considered these matters, the question arose as to what response should be given to the doubt and the request of the Ordinary regarding the dispensation. RESOLUTION. The Holy Office, having been informed on January 20, 1894, decided to respond as follows: To the first question, negatively, in all cases; to the second, to consult with the Most Reverend Joseph Accordi and his family, so that, for a period of three years, an indulgence may be granted for the celebration of Mass on the anniversary of the deceased members of the family, provided that it does not fall on a day of precept, and through Breviary. FROM WHICH WE GATHER: 1. Chapels that are constructed in cemeteries cannot be considered true public oratories, nor can Bishops grant indulgences for the celebration of Mass therein. FROM THE SACRED CONGREGATION OF BISHOPS AND REGULAR CANONS OF THE MELITAN ORDER OF ST. FRANCIS, THIRD ORDER, SECULAR. August 25, 1893. SUMMARY OF THE CASE. In the church of the Order of the Observant Minor Franciscans, located in the place called Vaux, on the island of Melita, a pious sodality of the Secular Tertiaries of St. Francis was canonically established, already from the year 1700. With the passage of time, as the devotion of the faithful towards this pious institution grew, the Provincial Custos of the aforementioned Order was petitioned, on behalf of the aforementioned sodality, for the faculty of wearing a habit similar to that worn by the Religious during public solemnities. This request was granted by the Provincial Custos through a decree dated March 28, 1860, in which it is written: "We grant the faculty of wearing a habit without a hood, made of cloth and of the same form and

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color, as is customarily worn."

[*Latin ed. p. 486*]

486 MELITEN. To the Religious within this our Custody, and to those who are to use the same habit in all internal functions, indeed even in external functions, provided that they walk together with the Religious and under the same cross, and in no other manner. Matters proceeded peacefully until the year 1887. At that time, the Minister of the Third Order presented a petition to the Bishop, stating that, in virtue of the Bull of Benedict XIII and the aforementioned decree of the year 1860, the confraternity had the right to walk under the cross of the First Order; and he subsequently requested that the Bishop declare that the Tertiaries could, without any opposition, walk under the cross of the First Order, and thus participate in the procession of the Body of Christ, which customarily takes place in the church of St. Paul's Shipwreck, to which the chapter of that church was accustomed to invite them. The Religious, to whom such a petition was communicated, replied that they would in no way participate in the aforementioned procession together with the said Tertiaries under the same cross; and this for two reasons: 1. so that a custom would not be introduced to which they did not wish to be bound; and 2. because the Tertiaries do not belong to the Community; otherwise, they would have to participate not only in that procession, but in all, and especially in the synodal ones. Against this opposition of the Religious of the First Order, the Tertiaries appealed to the Sacred Congregation of Bishops, and to the Holy Father, requesting that their rights be maintained. When asked about this appeal, the Reverend Procurator General, in a letter dated September 5, 1889, stated that the Franciscan Tertiaries of Meliten had no right to walk under the cross of the Religious of the First Order; that they could only be admitted in public processions depending on the will of the Religious; that the Tertiaries had the right only to raise their own banner and to participate in public processions with their own habit as Tertiaries, maintaining their place according to the privileges granted to them; and therefore, they could not be received by the Religious of the First Order for three reasons: 1. because a contrary custom stood in the way; 2. because the Tertiaries were motivated not by the spirit of devotion, but by a spirit of partisanship; 3. because it would be a disgrace to the Religious, since there are some Tertiaries present who do not even receive Holy Communion at Easter.

[*Latin ed. p. 487*]

MALTA. 487 Having received these letters, the Congregation dismissed the appeal of the Tertiary Order on September 20, 1889, with a decree. Following, perhaps, this decree, the Reverend General Visitator, in order to resolve all controversy, decreed on July 20, 1890, that the Minor Observant Convent of Saint Mary in the city of Vaux, and the Tertiary Franciscans of

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the same city, "must walk separately in public processions, each under its own distinct banner, whereas, by long-standing custom, they have always walked together under a single common Cross in the internal processions of our Church, and in that which customarily takes place on the morning of the Greater Feast of the Sixth Day of the Week, in the public exposition of the Most Holy Sacrament, commonly called the Holy Sepulchre." By this decree, discord was increased between the First Order and the Primaries of the Sodality. Indeed, in July 1890, after the three years prescribed by the rules, when the election of new officials was to take place, this could not occur, because, as the Reverend General of the Order recounts, certain influential leaders of the Sodality wished to propose candidates to be elected from their own side, which they were unable to achieve from the Reverend Director, since this was contrary to the rules; hence, the assembly had to be dissolved. The Reverend General of the Order, in order to put an end to this anomalous state of affairs, on September 27, 1890, implored the aforementioned Congregation "that the elections of the new officials of the Secular Tertiary Sodality of Malta might be carried out by the Reverend Director, together with the Reverend Provincial Custos of the Minor Observants and his assessor, and, if necessary, even by the Reverend General Minister, with a prior dispensation from the ordinary method of election." The Ordinary of Malta, in his informative letters concerning these requests, after stating that the Tertiaries have the right to walk in public processions under the Cross of the Religious of the First Order, maintained that the requested extraordinary remedy for the election of officials could not be granted, since there are insufficient reasons for its granting; and in subsequent letters of September 14, 1891, he added that it would be well if the Holy Congregation were to do so.

[*Latin ed. p. 488*]

488 MELITEN. Restricts the rights to public processions alone, to which other Religious Orders do not participate; and this, to avoid discord with those Orders who would be displeased to be preceded by the Tertiaries. However, the Holy Congregation deemed it better to promote reconciliation between the parties through a rescript dated November 17, 1891: It summoned the Procurator General and the Secretary, so that a peaceful resolution might be reached. In the meantime, with some offices vacant, either through death or resignation, the Minister of the Tertiaries requested from the Reverend Director of the Third Order the faculty of summoning the Confratres to elect new officials who would remain in office until a general council was held. When the Reverend Director refused, the aforementioned Minister, in order to avoid serious prejudices, appealed on July 1, 1892, to the Ordinary of Malta, requesting permission for the aforementioned convocation, but in a place and under a Director designated by the Bishop himself. And the Bishop, on July 9 of that year, granted this request through

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the following Decree: "Let it be as requested, assigning for the purpose, the Church of Saint Lucy, V. and M., and its Rector, Reverend Father Matthew Hyzler." However, this arrangement did not take effect, because on August 24, 1892, the Reverend Director informed the Minister of the Tertiaries of the Decree of the Reverend General Minister of the Observants, by virtue of which the association of the Third Order was declared dissolved, with the order to transfer, within ten years from the notification, all objects existing in the Convent and Church and pertaining to the aforementioned association, elsewhere. Immediately upon this decree, the Minister of the Tertiaries appealed to the Holy Congregation, requesting its revocation, or, if not, that the Ordinary of Malta, with prior Apostolic Brief, might grant the Tertiaries some church, in which they might continue to enjoy the graces and spiritual privileges attached to the association. Favorably disposed towards such requests, the Ordinary of Malta proposed that the Tertiaries be transferred, with all their rights and privileges, to the Collegiate Church of Saint Paul the Shipwreck, whose Chapter had already given its consent.

[*Latin ed. p. 489*]

MELITEN. In the year 1889, under the immediate jurisdiction of the Ordinary, and with an express prohibition against the Religious Minor Observants establishing another similar sodality in their church, the possibility of such a transfer was proposed in subsequent letters dated October 4, 1892, and could even be decreed by the Ordinary, provided that the aforementioned Religious were prohibited from admitting other tertiaries in their habit into their church, because, undoubtedly, scandals would arise therefrom. Meanwhile, the Reverend Custos of the Minor Observants, having heard that tertiaries had petitioned the Bishop for permission to gather in the Collegiate Church of St. Paul, issued a protestation before the Episcopal Curia on November 3, 1892, requesting that the requested permission be denied. Subsequently, as several appeals were received by the Sacred Congregation, both from the tertiaries and the Ordinary of Meliten, and also from the Procurator General of the Order of the Minor Observants, so that this matter might finally be settled, a decree was issued on March 24, 1893, and the decision in the dispute between the parties, with the doubts to be discussed, was referred to the General Congregation, whose rights are summarized as follows.

Synopsis of the Dispute. The tertiaries, in the first place, claim the nullity of the decree of the Reverend General Minister concerning the dissolution of the sodality, whether intrinsically or extrinsically. Intrinsically, because it is not based on any legal reason. Indeed, the reasons presented by the Reverend General Minister are that the tertiaries, from the year 1887 until the present, have been persistent, rebellious, and incorrigible, and the Reverend General Minister argues this from two facts in particular: 1. that

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the tertiaries claim to walk with the Religious in public processions under the same cross, 2. that the tertiaries refused to allow the election of new officials to be carried out by the Superiors of the First Order. However, these two reasons cannot be considered valid, according to the tertiaries. For as regards the first, the claim to the right to walk under the same cross is not only not contrary to the Constitution of Pope Benedict XIII, but also was recognized by the Reverend General himself in a decree dated March 28.

[*Latin ed. p. 490*]

490 MELITEN. In March of 1860, and subsequently, in the year 1889, it was confirmed, based on a fact that he himself prescribed to Father Custodi, that he should adhere to him in this matter. Regarding the second point, the Tertiaries claim that, resisting the proposed new method of election, they availed themselves of the privilege granted to them by their own statutes and by the Constitution of Leo XIII of May 30, 1883, in which it is prescribed that the election of new officials should be made not by the superiors of the First Order, but by the Tertiaries themselves, subject to certain conditions. Therefore, the Tertiaries argue, it is not surprising that the Ordinary of Meliten approved of their actions, as is evident from his letters of July 21, 1891, and especially from the letter of March 1, 1893, in which, refuting the proposal made by the Reverend General Procurator, he defended the Tertiaries in the following words: "The entire fault lies with them (the Tertiaries), because they wished to defend the rights and privileges of the Third Order, which were attached by Apostolic Constitutions and recognized by the local superiors themselves, although they were later withdrawn." Thus, from the two facts mentioned above, it is evident not the obstinacy or rebellion of the Tertiaries, but rather that they were firmly determined to defend the privileges and rights granted to them by Apostolic Constitutions, their own statutes, and even by the decrees of the religious superiors; indeed, it is well known that he who uses his right does no injury to anyone. However, even granting that the arguments presented are valid, the Tertiaries maintain that the aforementioned decree is null and void for an external reason. For it was issued when the matter had already been referred to the judgment of the Holy See; but it is well known in law that no inferior judge can interfere in a matter in which the Supreme Tribunal of the Holy See has already intervened, out of due respect for the highest authority. Therefore, the Tertiaries conclude, regardless of how the decree is viewed, it is null. Regarding the second question, namely, the intervention in public processions, including the procession of the Body of Christ.

[*Latin ed. p. 491*]

MELITEN. In the year 1891, concerning the matter of walking in proces-

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sion together with the Religious under their cross, the Tertiaries maintain that this privilege belongs to them, based on two grounds: 1. because this right was granted to them by the Bull of the Most Holy Pope Benedict XIII; 2. because it is in accordance with the Decree of March 28, 1860, in which the Provincial Custos of Melite granted the sodality the faculty of wearing a habit made of cloth, of the same form and color as the habit of the Religious. Indeed, with regard to the Tertiaries who are constituted in the sodality, it is stipulated in § X of the aforementioned Bull: "Therefore, We desire that the Tertiaries themselves, living under their own roof, should in all things show themselves to be contemners of this world, and that others may be drawn by their example, and be incited to humility, and that, under the cross of the Brothers Minor, they may participate in public processions and in the carrying of corpses and other ecclesiastical functions, and that, according to the Constitutions of the Order, they may walk in their own habit, which is designated; and, by these presents, We grant and concede." This is also clearly stated in the aforementioned Decree, in which the Provincial Custos grants the Tertiaries the faculty of wearing a habit of cloth, similar to the habit of the Religious, "so that they may use it in all their functions, both internal and even external, provided that they walk together with the Religious and under their cross, and in no other way." Therefore, when consulted regarding this matter, the Bishop of Melite issued a favorable opinion, justly and deservedly, in favor of the Tertiaries, stating that their petition is founded in justice. To the objection raised against them, that a new custom is being introduced, to which the Religious do not wish to be bound, or that the Tertiaries are led by a spirit of faction or rebellion, the Tertiaries reply that their intention is only to vindicate the rights and privileges granted to them by the Apostolic Bull and by the First Order itself, through the aforementioned decree. Furthermore, it follows from what has been presented that the disposition of July 20, 1890, by the General Visitator, in which, believing that there is no law obliging the First and Third Orders to walk under the same cross, he decreed that the Religious and Tertiaries must walk separately in public processions, under their own distinct banner, cannot be upheld.

[*Latin ed. p. 492*]

492 MELITEN. This decree is also impugned by the Ordinary of Meliten on another ground: 1. because it was issued while a dispute was pending; 2. because it was promulgated by one party, namely, the Reverend Minister General, who is the principal actor in the cause; 3. because, with the issuance of this decree, the decision of the controversy before the Holy Congregation would be rendered useless; 4. finally, because, since it was issued in the year 1890, it presupposes that, before that time, the Tertiary members had been denied the right they now possess. The opposing party likewise introduces an irrelevant argument, claiming that the Decree of

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March 28, 1860, should only apply to internal and non-public processions, and that the permission for the Tertiary members to participate in these processions under the cross of the Religious is subject to revocation at the will of the Religious, if they so desire. However, regarding the first point, the wording of the Decree clearly states that the Tertiary members can participate individually with the Religious under their cross in all external functions. Regarding the second point, the Tertiary members observe that the permission granted to them is not only derived from the aforementioned decree, but rather from the aforementioned Benedictine Bull; therefore, this permission cannot depend on the will of the Order, according to the well-known principle of law that a lower law cannot derogate from a higher law. Furthermore, according to the Tertiary members, another objection should be considered by the Religious: namely, that since there are some among the Tertiary members whose conduct and way of life are blameworthy, it would be a disgrace to the Order if they were to walk with them under the same cross in religious functions; if this argument were valid, then these individuals should be excluded by the Religious from all functions, which, however, is not the case, since the Religious walk with them individually in the procession that takes place in the morning on Thursday of the Greater Week for the visitation of the Most Holy Sacrament publicly exposed, commonly called the "Sepulchre." Therefore, the Tertiary members conclude that they have the right or privilege to walk with the Religious under their cross, whether in private functions or even in public processions, including those for the Body of Christ, and this is especially true when among them are those who...

[*Latin ed. p. 493*]

MALTA: Religious Franciscans of the Observance come [to Malta], but even when other Religious Orders are involved, the Ordinary of Malta holds the contrary opinion: for this privilege was granted to them repeatedly by the Bull of Pope Benedict XIII, from the Holy See, without any limitation; and it is well known in law that, where the law does not distinguish, neither should we. Regarding the second question proposed in the third formula of doubt, namely, that the election of new officials should, for this occasion, be carried out by the Superiors of the First Order, the Tertiaries, together with the Bishop of Malta, maintain that the petition of the General Minister should be entirely rejected, because: 1. there is no sufficient reason to resort to this extraordinary remedy; 2. because this new method of election would damage the honor of the pious Tertiary Sodality, in which commendable confreres are enrolled in every way. Furthermore, with regard to the transfer of the dissolved Sodality, with all its rights and privileges, to another church, and specifically to the distinguished Collegiate Church of Saint Paul the Shipwreck, under the immediate authority of the Ordinary, the Tertiaries state that this is most expedient and suitable:

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1. because, so it seems, the Ordinary of Malta agrees; 2. because in this way, all possibility of disputes and lawsuits between the First Order and the Tertiaries would be eliminated. The same principles of prudence suggest that Religious should be prohibited from establishing a new Sodality in their church, because, without doubt, in the judgment of the Bishop himself, disputes would arise between the two Sodalities, due to their proximity and rivalry, to the great scandal of the faithful. Finally, with regard to the restitution of sacred vessels, books, and money, which should be made by the dissolved Sodality to the newly established Tertiary Society in the Franciscan church, the Tertiaries state that this restitution cannot in any way be demanded, because the aforementioned objects belong, by right of ownership, to the dissolved Sodality, and no new Sodality can claim any right over them.

RIGHTS OF THE RELIGIOUS FRANCISCANS OF THE OBSERVANCE: On the other hand, the Religious request confirmation of the Decree of dissolution of the Tertiary Sodality, because it was issued by a competent authority and is supported by serious reasons. Indeed, it was issued...

[*Latin ed. p. 494*]

494. MELITEN. It does not seem that the legitimacy of the authority [to dissolve the Tertiaries] can be doubted, if one considers the various Constitutions of the Roman Pontiffs, and especially the Constitution *Misericors Dei Filius* of the reigning Pontiff, dated May 30, 1893. From these, and especially from Chapter IV of the Constitution *Misericors Dei Filius*, it is clear that the establishment of a Tertiaries sodality depends on the Religious of the First Order, and that the Brothers established in the sodality must be subject to the Religious Franciscan, called the Visitor, to whom they are subject "regarding the observance of the Rule, regarding the meetings to be held within the year, and regarding the punishment if anyone among the Tertiaries should deserve punishment." Indeed, the Superiors of the Religious have the power to expel Brothers from the sodality after a second and third warning, if they remain contumacious. Thus, in § 4, it is stated: "Those Brothers who are not obedient and are contumacious are to be warned a second and third time regarding their duty; if they do not obey, they are to be ordered to leave the Order." Therefore, it is clearly evident that the Provincial Minister also has the power to dissolve the sodality for just causes. That these just causes are present in the matter is argued not only by the appeals of several Superiors of the Order, who state that they are unable to restrain the rebellion of some of the Tertiaries against the First Order, but also from letters given by the Provincial Minister dated September 27, 1890, to the Reverend Prefect of the Holy Congregation. In these letters, the Provincial Minister laments that there are some among the Melitan Franciscan Tertiaries, and what is worse, even officials of the sodality, who are not led by the spirit of the Seraphic Order, but who, for four

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years, have been openly in opposition to the Religious Superiors. Under the leadership of these officials, the Tertiaries, although some disapprove of the dissent, incite rebellion and show themselves to be persistent, rebellious, and incorrigible towards the Religious; this discord, while diminishing the dignity of the First Order, also causes scandal among the faithful. Therefore, since, according to the aforementioned reasons, it is clearly established that there are grounds for dissolving the sodality of the Melitan Tertiaries, the disputed decree must be considered valid and maintained in its full force.

[*Latin ed. p. 495*]

MELITEN. 495. But, under the condemned hypothesis that this [right] is not granted, the Religious argue that the Tertiary members are infected with the idea that they have the right to walk together with them, under the Cross of the First Order, in public processions, and especially in those of the Most Holy Body of Christ, which are customarily held in the Collegiate Church of Saint Paul the Shipwreck, and this for two reasons: 1. because in this way a new custom would be introduced, to which the Religious do not wish to submit in any way; 2. because the Tertiary members cannot be considered as part of the religious community: for if this were the case, then the Tertiary members would have to be present not only at the aforementioned procession, but also at all others, and especially at the synodal ones. Furthermore, according to the Religious, the Tertiary members base their alleged right on a decree of the year 1860: 1. because it does not concern public processions, but only internal ones, and those matters concerning penance; 2. because, even if it were understood to concern external or public processions, this faculty would be revocable by the same authority that issued the decree. Therefore, the General [Superior], having stated that the Tertiary members are led, in claiming their alleged rights, not by the spirit of devotion, but by emulation and rebellion, and that, since they received their own habit 29 years ago, they have never been present at public processions, concludes that the present controversy must be resolved with the following answer, namely: "The Franciscan Tertiary members do not have the right to participate in public processions under the Cross of the Brothers Minor, but only under their own Cross; and this, whether other orders are present or not." In more explicit terms, the Tertiary members of Meliten either must abstain from participating in public processions, or, if they wish to participate, they must walk under their own banner and maintain the place reserved for them by the privileges of the Third Order. Then, proceeding to the second question concerning the suitability of the election, namely, the appointment of new officials by the Superiors of the Order, the Religious argue that the petition of the General [Superior] should be received with kind consideration. Indeed, if it concerns not a right to be exercised, but a grace to be granted, then it is sufficient that just

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and weighty reasons be present, and these are present in the case of the General [Superior], namely, more...

[*Latin ed. p. 496*]

496. MELITEN. demonstrates in his suppliant treatise to the Holy Congregation: for this aforementioned grace not only serves to restrain the rebellion and arrogance of certain members of the Third Order, but also prevents scandal among the faithful. Therefore, the Religious maintain that it is most expedient that, in this instance, the ordinary method of electing new officials of the Franciscan Third Orders be set aside. Furthermore, the Religious argue that the transfer of the Third Order sodality from its church in the city of Vaux to the church of Saint Paul of the Shipwreck should in no way be permitted, firstly because it would carry with it an indirect approval of the rebellion of the Third Order members, secondly because it is an anomaly to conceive of a Third Order congregation independent of the Superiors of the Order, and finally because it would be contrary to the Pontifical Constitutions, and especially to the often-cited Constitution *Misericors Dei Filias*. Indeed, in chapter III, concerning the duties of visitation, etc., it is stipulated that the visitor of each sodality must be a Religious, either from the First or from the Regular Third Order of Franciscans, whose duty it is to visit the sodality once a year, or more frequently if necessity demands, to convene chapters, to admonish erring confreres, and to restrain them with salutary penalties, even with expulsion from the sodality itself. "The Curator, who is the Visitor, shall diligently inquire whether the laws are observed, and shall, as often as circumstances require, convene the sodality, having given notice to the Prefects and all the members. If the Visitor, in admonishing or commanding anyone, or in decreeing any salutary penalty against anyone, should do so, this person shall receive it modestly, and shall not deny that he deserves it." This statute, by law, would be contrary and contradictory to any project of independence of the Third Order from the First Order. From these reasons, it follows, according to the Religious, that it should be forbidden to erect a new Third Order sodality in the place of the dissolved society, and that this right, so clearly granted to them by the Pontifical Constitutions, should not be hindered by the fear of scandal or disputes that might arise from such an erection, since it is known that...

[*Latin ed. p. 497*]

In Malta, the year 197, injustice is done. However, once this right is admitted in Religious Orders, it necessarily follows that the assets of the dissolved Congregation must pertain to the establishment of a new one, which will succeed the old one in its place. It does not matter that these assets, by the law of property, belong to the members of the dissolved Sodality; as the General Superior states in his informative letter of January 15, 1893,

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the Religious have the intention of incorporating all the Brothers of the Third Order who are already part of the dissolved Sodality into the new Congregation, except for those who are rebellious and who disturb the peace. Given these points, and assuming the supreme judgment of the Most Reverend Fathers, the following questions are raised:

I. Whether the decree of the Minister General, dated August 1, 1893, by which he dissolved the Sodality of the Third Order established in the Convent of the city of Vaux, is valid.

II. Whether the members of the aforementioned Third Order have the right to participate in all public processions, including the procession of the Body of the Lord, together with the Religious, under the same banner, even if other Religious Orders also participate in these processions.

III. Whether the election of new officials for the aforementioned Sodality should be carried out according to the statutes, or rather, for this occasion, according to the method proposed by the General Superior of the Order.

IV. Whether and how the aforementioned Sodality can be established in the Church of St. Paul the Shipwreck, with all the rights, privileges, and indulgences of the Third Order, under the immediate authority of the Ordinary, and with the prohibition for the Religious of the Minor Observants to establish another Sodality of Tertiaries in their church.

And, to the extent that it is affirmed, to point 1, it is denied, to point 2. Whether the officials of the dissolved Sodality of the Third Order can be compelled to return the assets to the new Sodality, according to the Acts of the Religious, Volume XXVI, page CCCVIII, 32.

[*Latin ed. p. 498*]

498. MEUTEN. Concerning the erection of a church within their community, the use of sacred vessels, books, and money pertaining to the Third Order, in the case of RESOLUTION. The Sacred Congregation, on August 25, 1893, after careful examination of the proposed questions, resolved as follows:

I. Negatively in all respects, and furthermore.

II. Affirmatively, provided that legitimate custom is observed.

III. Affirmatively regarding the first part, negatively regarding the second.

IV. and V. Provision is made in the first.

FROM WHICH WE GATHER:

I. Although Secular Franciscans of the Third Order are bound to all obedience and dependence on Religious Franciscans of the First Order, this dependence is limited: therefore, the Superior of the Religious cannot, at his own discretion, dissolve the association of Secular Tertiaries, but it is

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necessary that serious and urgent reasons be present.

II. Similarly, the rights granted to Tertiaries by Apostolic Bulls, such as the right to proceed under the common cross of the Religious, cannot be taken away or diminished by them; only these rights can be lost through a legitimate contrary custom, concerning which, however, there was no evidence in the present matter.

III. The right belonging to Secular Franciscan Tertiaries to proceed under the cross of the Religious of the First Order, in internal and external, or public, processions, is not restricted to the case only when the aforementioned Religious are present; but it extends to processions in which other Regular Orders participate, according to the saying, "where the law does not distinguish, neither should we distinguish."

IV. In the election of officials of the associations of Tertiaries, as in other similar acts, the law of the statutes must be strictly observed, and it should not be easily resorted to other remedies or extraordinary means by derogating from the law, since those things which exceed the law are most detestable.

[*Latin ed. p. 499*]

499 FROM THE HOLY CONGREGATION FOR RITES IN PARIS. Decree concerning the Beatification and Canonization of the Venerable Servant of God, Sister Theresa of Saint Augustine, a religious professed of the Discalced Order of Carmelites. Whereas, on the 4th day of April of the present year, Our Most Holy Lord Pope Leo XIII, with paternal benevolence, has decreed that, concerning the fame of the sanctity of life, virtues, and miracles of the aforementioned Venerable Servant of God, Sister Theresa of Saint Augustine, the matter may be considered in the Ordinary Congregation, without the intervention or vote of the Consultors; and whereas, the Reverend Father Dionysius of Saint Theresa, Vicar and Postulator General for the Causes of Beatification and Canonization of the Servants of God of the Discalced Order of Carmelites, and the Reverend Lord Cardinal Miecislaus Ledochowski, Promoter of this Cause, proposed the following question for discussion in the ordinary meetings of the Sacred Congregation, convened at the Vatican, namely: Does it appear that the Process instituted in the Diocese of Paris, by Apostolic authority, concerning the fame of sanctity, virtues, and miracles in general of the aforementioned Venerable Servant of God, is valid and relevant, in this case and to the effect of what is being considered? Furthermore, the Reverend Fathers, entrusted with the safeguarding of the sacred rites, having carefully considered all matters, and having heard the voice and written opinion of the Reverend Father Dionysius Caprara, Promoter of the Holy Faith, judged it fitting to respond: Affirmative, or It is established. December 19, 1893. These matters, having been reported by me, the undersigned Cardinal, Prefect of the Sacred Congregation for Rites, to Our Most Holy Lord Pope Leo XIII, His Holiness

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approved and confirmed the decision of the Sacred Congregation in all respects on the 21st day of the same month and year. C. L. * CARD. ALOISI-MASELLA & R. C. Prefect. .S. R. C. Secretary. S. VINCENTIUS NUSSI.

[*Latin ed. p. 500*]

FROM THE SACRED RITES OF ORLEANS. Decree of Beatification and Canonization of the venerable Servant of God, Joan of Arc, virgin of Orleans. CONCERNING THE DOUBT: Whether she should be declared a saint, and whether the Commission for the Introduction of the Cause should proceed to the effect intended; in this case, God, as the Apostle says, calls those who are not, as if they were, just as He formerly chose Deborah and Judith for important tasks; thus, in the fifteenth century, towards its end, He raised up Joan of Arc, to restore peace to a homeland torn by war between the French and the English, and to vindicate the freedom and glory of the Christian religion. Born in Lorraine on February 6, 1412, she was of modest parentage, but her grandmother was outstanding in her piety towards God. From her earliest years, she was imbued with good morals and excelled in every kind of Christian virtue, especially in the testimony of her angelic chastity. Still a young girl, fearing God with a simple and innocent heart, she helped her parents, who were farmers, with the work of her hands; at home, her fingers grasped the spindle, and she did not refuse to lead the plow in the field with her father. These qualities in the pious young girl were increased day by day by heavenly gifts. When she had reached the age of seventeen, she received a divine revelation, by which she knew that she must go to Charles, the Dolphin of France, to reveal a secret that she had received from God. This good and simple girl, with unwavering obedience and inspired by a wonderful zeal, immediately set out on her journey. Leaving her homeland and her parents, after many perilous journeys, she stood before the king in the city, commonly called Chinon, and, with a firm and courageous spirit, revealed to him what she had heard from Heaven: she declared that God had sent her to deliver the city of Orleans from siege and to lead him to Rheims, where, after Jesus Christ, the supreme King of France, he would be proclaimed, and where Charles would receive the consecration and the insignia of the kingdom in his place and stead. The king was astonished by what he heard; but, in order that the matter might be handled more prudently and safely at such a critical time, he sent her to Poitiers, where a gathering of distinguished men was assembled to examine her. Among them were the Archbishop of Rheims, the Chancellor of the Kingdom, the Bishops of Poitiers and Maguelonne, and other outstanding Doctors, both secular and regular, who, shortly after, examined the girl.

[*Latin ed. p. 501*]

From the Sacred Rituals, §01, it is recorded, with a most illustrious testi-

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mony, that she demonstrated the same faith, piety, chastity, and simplicity, thereby proving the divine nature of her mission to the King. Hence, she, who had never used a shield or helmet, was seen to mount a horse, to the astonishment of all; then, grasping a sword with one hand, or bearing a banner with the image of the Redeemer with the other, she dedicated herself to the perils and labors of war, and fearlessly advanced into the midst of the enemy. It is incredible to relate the courage she displayed, the insults and derision she patiently endured from her adversaries, and the prayers she offered to God with tears and fasting, so that the people of Aurelianenses might be victorious, and that she might, with God's help, avert the danger of the new uprising in Gallia, and preserve the integrity of the kingdom, its laws, and its defenses, ensuring peace and prosperity for future times, and preventing the ruin of the Religious Order. It was seen that Joanna, whose side was always pressed by the Confessor, strove to repel all those who sought to corrupt morals, inciting many to commit evil, and even attacking pious priests who fostered devotion. However, the example of the young girl herself was more powerful, for she embodied an angelic quality through the exercise of all virtues, especially through her fervent love for God and her neighbor. And this charity extended even to her enemies, so that not only did Joanna never harm anyone in La Charite or Asti, but when she saw those who were wounded, she immediately helped them, raised them up, supported them, and cared for them, to the great admiration of all. Finally, as a valiant leader, she liberated the city of Aurelianenses from the enemy, and brought peace to the terrified citizens. Moreover, it is to be attributed to her that all the lands around the Loire, from Trecensis, Catalaun, and Rhemensis, submitted to the King; and the Duke was solemnly proclaimed King in Rhemis. For all these great benefits, so that it might be pleasing to God, and approved by His servants, that young girl endured a harsh and difficult age. For, although she was still young, having been either a virgin or a widow, she fell into the hands of the most cruel enemies, who sold her, and subjected her to chains, and tormented her with hunger, thirst, and imprisonment, day and night; and then, as if infected with the heresy of the schismatic Council of Basileia, she was condemned to an unjust sentence, and was about to be burned at the stake. But, after the Sacred Eucharist was celebrated, and as she was being burned, turning her eyes towards the cross, she repeatedly exclaimed the name of Jesus, and met her death with a precious martyrdom, which she...

[*Latin ed. p. 502*]

502 According to the sacred rites, it is known that the heavenly splendor, illuminated, immediately aroused the admiration of those present, so that even the enemies were more terrified. Nor was there a lack of those who, struck by that horrible spectacle, returned, repenting; and even the executioner himself openly confessed the innocence of the murdered girl.

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Afterwards, the people venerated Joan's sanctity immediately in the very place of her punishment, so that, lest the people seize the relics of the girl, together with her ashes, which had been burned in the fire and were still dripping with blood, were thrown into the river by the enemies. When Charles VII obtained the kingdom and restored public order in France, Callistus III, the Supreme Pontiff, at the request of the relatives of Joan, ordered that an investigation be instituted by Apostolic Judges regarding the process by which the girl had been condemned to the fire: who, after hearing the testimony of twenty witnesses of various ages and conditions, on July 7, 1456, pronounced a sentence by which the previous judgment was revoked, and the innocence of the girl was declared. Then, for four centuries, the fame of her sanctity spread throughout the world, so that our time has finally seen an Ordinary Inquiry regarding the same sanctity and virtues in the ecclesiastical court of Aurelian. After this was properly completed and presented to the Sacred Congregation of Rites, the Most Holy Pope Leo XIII graciously permitted that the Question regarding the introduction of the cause of this Servant of God be examined by the Commission of Signatures, in the manner that it obtains, in the meetings of the aforementioned Sacred Congregation. Therefore, at the request of the Most Reverend Bishop of Aurelian, together with the Most Reverend Father Arthur Capti, General Moderator of the Society of Saint Sulpice, and Postulator of the same cause, and after considering the postulatory letters of numerous Most Reverend and Most Reverend Cardinals and Holy Prelates, not only from France, but also from regions very far away, in which are found numerous and venerable men of the clergy, who support the almost universal Catholic cause, in the meetings of the Ordinary of the Sacred Congregation of Rites, held at the Vatican on the designated day, by the Most Reverend and Most Reverend Lord Cardinal Lucido Maria Parocchi, Bishop of Albano Laziale, Relator of the same cause, the following question to be discussed was proposed: Whether a Commission of Introduction of the cause should be appointed in this case, and for the purpose of what is being discussed? And the Sacred Congregation itself, after carefully considering everything, and after hearing the voice and the written opinion of the Reverend Father Augustine Capram, Promoter of the Holy Faith, decided to write: "A Commission should be appointed, if it pleases the Most Holy [Pope]." On January 27, 1894.

[*Latin ed. p. 503*]

From the Sacred Rituals, number 503. After all these things, having related the aforementioned to the Most Holy Lord, our Pope Leo XIII, and having presented it to the Cardinal Prefect of the aforementioned Sacred Congregation, His Holiness, having approved the aforementioned writing of the Sacred Congregation itself, with his own hand signed the Commission for the Introduction of the Cause of the Venerable Servant of God, Joan

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of Arc, Virgin, on the same day, month, and year.

CAL CARD. ALOISI - MASELLA

Prefect of the Congregation for the Doctrine of the Faith.

VINC. Nussi, Secretary.

DECREE concerning the granting of the scapular of the Blessed Virgin Mary of Genestà, who is called the Mother of Good Counsel.

Concerning the Blessed Virgin Mary, Mother of God, who, according to the Holy Fathers, is the work and counselor of the Eternal Counsel, and the salvation of the whole world, she has been proclaimed by the aforementioned Church to be the one who is read in the Holy Scriptures concerning divine wisdom: "My counsel is; I am in counsel, and among the wise I am." She has received the title, by which the Queen of Heaven has, from ancient times, been given to Christian faithful, namely, the Mother of Good Counsel. This custom of calling the Blessed Mother of God by this name has been especially prevalent from that time when, four centuries ago, while Pope Paul II was reigning, a beautiful icon of the Most Blessed Mother miraculously appeared there. And a pious union, under this title, was instituted by the Superiors of the Order of Eremites of Saint Augustine, existing there, with the consent of the General Prior of that Order, which was approved and confirmed by Benedict XIV, and protected by the inviolable patronage of the Holy See, and by him and other Supreme Pontiffs, indulgences were granted. But in these present times, with the urgent needs of the Christian people, it is seen how much this kind of devotion has increased. And it has happened that the Christian faithful have expressed a desire for some sign, or a scapular, dedicated to the Blessed Virgin of Good Counsel, so that they may be able to merit more abundantly the graces of that Mother of Good Counsel. For this reason, the Reverend Father Aurelius Martinelli, General Moderator of the aforementioned Pious Union, humbly implores the Apostolic See, that for each time, the Directors of each place may be granted...

[*Latin ed. p. 504*]

504 EX: By the established rite, the faculty is granted to bless and to impose the scapular, for both men and women, in honor of the most Blessed Virgin Mary, under the title of "Good Counsel." These matters, having been reported from the Most Eminent and Reverend Lord Vincent Vannutelli, Prefect of the Congregation of Sacred Rites, in a meeting of the Congregation, held at the Vatican, and having been considered prematurely by the Most Eminent and Reverend Fathers entrusted with the rites, it was deemed necessary to write to the Reverend Father Augustine Capram, Promoter of the Holy Faith: "We request that Your Holiness grant the scapular, according to the schema approved by the Sacred Congregation and pre-

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sented to it, for the Order of Eremites of Saint Augustine; with the faculty of delegating [the blessing and imposition], and with indulgences to be obtained from the same Most Holy [Pope]." Regarding the formula for the blessing and imposition of the same scapular, [we request] that it be sent to the Prefect and the Promoter of the Faith. December 19, of the year 1893. Subsequently, concerning the matters mentioned above, the Cardinal, Prefect of the aforementioned Congregation, presented a report to His Holiness, Pope Leo XIII. His Holiness, in these times of so many disturbances, having sought the help of the most Blessed Mother of God, approved the scapular and its formula, which had been reviewed and amended by the aforementioned Prefect, together with the aforementioned Promoter of the Holy Faith, in accordance with the Sacred Congregation itself, and, at the same time, graciously granted the faculty to the Fathers of the Order of Eremites of Saint Augustine to bless and impose it, with the requested indulgences, and with the faculty of delegation. December 21, of the same month and year.

C. A. L.

CARD. ALOISI - MASELLAS.

R. C. PRAEF.

L.
*

S. VINCENTIUS NUSSI

Secretarius.

[*Latin ed. p. 505*]

EX. S. C. RITUUM 505 FORMULA for blessing and bestowing the scapular (1) Of the Blessed Virgin Mary, who was conceived by the Holy Spirit. He who is about to receive the scapular of the Blessed Virgin Mary kneels, and the Priest, wearing his stole, says:

a. *Adiutorium nostrum in nomine Domini.* (Our help is in the name of the Lord.)

b. *Qui fecit caelum et terram.* (Who made heaven and earth.)

c. *Ostende nobis, Domine, misericordiam tuam.* (Show us, O Lord, Thy mercy.)

d. *Et salutare tuum.* (And Thy salvation.)

e. *Domine, exaudi orationem meam.* (O Lord, hear my prayer.)

f. *Et clamor meus ad te veniat.* (And let my cry come to Thee.)

g. *Dominus vobiscum.* (The Lord be with you.)

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h. *Et cum spiritu tuo.* (And with Thy spirit.)

i. *Oremus.* (Let us pray.)

O Lord Jesus Christ, who, through the Angel of the Great Counsel and the Admirable Counselor, came to us through Your Incarnation: deign to bless this scapular of the Blessed Mary, Your Mother of the Good Counsel, so that those who wear this emblem, through Your grace, may follow right counsels and enjoy eternal blessings: Who live and reign world without end. Amen.

Then, he sprinkles the scapular with blessed water, and, placing it upon him, he says:

Receive, Brother (or Sister), this emblem of the Blessed Virgin Mary, Mother of the Good Counsel; that, inspired by her, who is ever pleasing to God, you may always accomplish what is pleasing, and may be associated with the elect in heaven. Through Christ Our Lord. Amen.

Then he continues:

a. *Ora pro nobis, Mater Boni Consilii.* (Pray for us, Mother of the Good Counsel.)

b. *Ut digni efficiamur promissionibus Christi.* (That we may be made worthy of the promises of Christ.)

(1) This scapular shall be made of two pieces of woolen cloth of white color, joined together by a double cord or ribbon. One part shall have superimposed upon it an image printed on silk or similar material, depicting the image of the Blessed Virgin Mary, who is venerated in the Sanctuary of Genestà, with the words inscribed: MOTHER OF THE GOOD COUNSEL. The other part shall bear the pontifical coat of arms, namely, the triple crown with keys, and the words inscribed in Latin or in the vernacular: ”Fili, acquiesce consiliis eius” (Son, be subject to her counsels). (Leo XIII).

[*Latin ed. p. 506*]

506 FROM THE SACRED RITES: LET US PRAY. O God, who gave us the Mother of your beloved Son, and who deigns to manifest her beautiful image through a wondrous apparition: grant, we beseech you, that, adhering steadfastly to her guidance, we may live according to your will, and may happily arrive at the heavenly homeland. Through Jesus Christ our Lord. Amen.

LIST OF PLENARY INDULGENCES. Faithful of both sexes may gain a plenary indulgence, applicable to souls in the purifying fire of Purgatory, on the following days, provided they have confessed their sins and have attended Holy Mass:

1. On the day that the Scapular of the Most Blessed Virgin, Mother of Good Counsel, is received, or on a Sunday, or on any feast immediately following that of the Most Blessed Virgin, Mother of Good Counsel.

2. On April 26th, or on any day within the Octave of the feast of the Most

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Blessed Virgin, Mother of Good Counsel.

3. At the hour of death, provided that, having confessed their sins and having received the Most Holy Eucharist, if they are able, they have invoked the Most Holy Name of Jesus.

4. On the feasts of the Immaculate Conception, Nativity, Annunciation, Purification, and Assumption of the Most Blessed Virgin, as well as on the feast of Saint Augustine, Bishop and Doctor of the Church.

PARTIAL INDULGENCES.

1. The Faithful of both sexes may gain an indulgence of seven years and as many Quarantines (forty days), applicable in the same way to souls in the purifying fire, on the feasts of the Presentation and Visitation of the Most Blessed Virgin; provided that, with a contrite heart, they visit a church or a public oratory, and there spend some time in devout prayers to God.

2. An indulgence of one hundred days, as often as, with a devout heart, they invoke the Counsel of the Virgin.

3. Also, an indulgence of one hundred days, as often as, with a contrite heart, they perform some good work for the conversion of sinners.

[*Latin ed. p. 507*]

507 FROM THE SACRED ORDER OF RITUALS OF ERMITES. Our Most Holy Lord Pope Leo XIII, having received the report of the undersigned Cardinal Prefect of the Sacred Congregation of Rites, has approved the aforementioned formula of blessing, which was reviewed and amended by the Most Reverend Cardinal Vincent Vannutelli, Relator of the Cause, together with the Reverend Father Augustine Caprara, Promoter of the Sacred Faith, and has, with paternal benevolence, granted the Indulgences requested, which are noted in the aforementioned list, to the faithful who wear the scapular in honor of the Most Blessed Virgin Mary, Mother of Good Counsel, according to the decree of the same Sacred Congregation of December 19, 1893. Notwithstanding any objections. On the 21st day of the same month and year. C. CARD. ALOISI - MASELLAS. R. C. L. * Prefect. S. VINCENTIUS NUSSI, Secretary. FROM BASLE, concerning the distinct confraternities of Christian faithful, which nevertheless refer to the same object of worship, and concerning the appointment of parish priests to the office of Rector of confraternities. In the Diocese of Basle, there exist two confraternities in distinct churches, one under the title of the Most Sacred Heart of Jesus, and the other under the title of Perpetual Adoration of the Most Sacred Heart of Jesus. Now, because of the existence of these confraternities which at least regard the same principal object of worship, some doubts have arisen, the solution of which the Bishop of Basle humbly requests from this Sacred Congregation, which presides over Indulgences and Sacred Relics. Therefore, the following is asked: I. Whether the faith-

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ful can be enrolled in both confraternities, which offer the same object of worship; and if not, to what confraternity should those faithful who are already enrolled in the aforementioned confraternities remain enrolled?

[*Latin ed. p. 508*]

508 FROM THE SACRED CONGREGATION OF INDULGENCES, II. Concerning the matter, if a Rector has not been appointed for the aforementioned Brotherhood under the title of the Most Sacred Heart of Jesus, at the time of its establishment, whether the parish priest who requested the establishment can validly be considered the Rector, and, if not, a petition is made for the correction of any inscriptions made up to this point, improperly. III. Whether vicars of the same parish can validly co-opt Christians into the Brotherhood, and, if not, a petition is also made for the correction of any such inscriptions. Furthermore, the Sacred Congregation, after carefully considering the aforementioned doubts, and after the vote of one of its Consultors, responded as follows: Regarding I, affirmatively in part; regarding II, provisionally, as in I. Regarding II, negatively in part; regarding II, a supplication should be presented for correction. Regarding III, negatively in part; unless the parish priest has been granted the faculty to delegate his vicars or other priests whom he deems suitable, according to what this Sacred Congregation decreed in a document from Aux, dated August 22, 1842; regarding II, also, a supplication should be presented, if the parish priest has not granted such a faculty. Given in Rome, from the Secretariat of the aforementioned Sacred Congregation, on the 13th of February, 1894.

[Signature]

FR. IGNATIUS CARD. PERSICO, PREFECT.

L. S.

F. ALEXANDER, ARCHBISHOP OF NICOPOLIS, SECRETARY.

[*Latin ed. p. 509*]

509 APPENDIX V. EXHIBENS ACTA SEDIS APOST.; QUAE AUT IAMDIU EXARATA SUNT AUT QUAE TEMPESTIVO LATUERUNT EPHEMERIDUM MODERATOREM.

S. Poenit. Ap. 12 Aprilis 1889. — Archiep. Dubia quoad separationem quando adest incestus publicus. Rescripta S. Poenitentiariae in causis matrimonialibus cum adfuit incestus publicus, clausulam sequentem in praesenti continent: Remoto, quatenus adsit, scandalo, praesertim per separationem si fieri potest. Hisce miseriimis temporibus non raro evenit ut separatio orantorum obtineri nequeat, aut quia plures iam habent liberos simul educandos, aut quia nusquam alibi habitare possunt; et tunc vix intelligi

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potest quaenam alia separatio scandali exigi debeat, antequam dispensatio concedatur. Rogamus igitur ut S. Poenitentiaria benigne velit declarare num haec clausula « remoto scandalo » ita necessario debeat adimpleri, ut illa omissa, dispensatio fuerit nulliter concessa. Et quatenus affirmative:

1. Cum pluries acciderit ut, errore ducti, ita dispensaverimus, suppliciter petimus ut S. V. dispensationes huiusmodi benigne convalidare dignetur, et, si opus sit, matrimonia exinde secuta in radice sanare.

2. Rogamus ut S. Poenitentiaria nobis velit indicare quibusnam praesertim mediis remotio seu reparatio scandali, defectu separationis, procurari debeat aut possit. Sufficitne, v. g. ut in Ecclesia inter Missarum solemnia publice denuntietur matrimonium inter oratores contrahendum, vel ut oratores, aut alteruter eorum, ante dispensationis executionem sua peccata confiteatur.

R. Separationem praeferri aliis modis reparationis scandali; si haec fieri nequeat, scandalum esse reparandum, sed modum scandali reparandi remitti prudenti arbitrio et conscientiae Ordinarii, iuxta cuiusque casus exigentias. Casu quo omissa sit separatio, et scandalum alio modo reparatum, acquiescat; secus, si aliquo in casu scandali reparationem omiserit, sileat, et in posterum cautius se gerat.

Translation:

509 APPENDIX V. SHOWING THE ACTS OF THE APOSTOLIC SEE; WHICH HAVE EITHER ALREADY BEEN PUBLISHED OR WHICH HAVE BEEN TIMELY COMMUNICATED TO THE EDITOR OF THE EPHEMERIS.

S. Poenit. Ap. 12 April 1889. — Archbishop. Doubts regarding separation when public incest is present. The replies of the Sacred Penitentiary in matrimonial cases where public incest is present, currently contain the following clause: "The scandal must be removed, as far as possible, especially through separation if it can be achieved." In these difficult times, it often happens that the separation of the parties cannot be obtained, either because several of them already have children to raise together, or because they cannot live anywhere else; and then it is scarcely understood what other removal of scandal is required before a dispensation is granted. We therefore ask that the Sacred Penitentiary kindly declare whether this clause "scandal removed" must necessarily be fulfilled, so that if it is omitted, the dispensation is not validly granted. And, in the affirmative:

1. Since it has happened on several occasions that, misled, we have granted dispensations, we humbly request that the Holy See deign to kindly validate such dispensations, and, if necessary, to heal the marriages that followed from the root.

2. We ask that the Sacred Penitentiary indicate to us, in particular, by what means the removal or reparation of scandal, in the absence of separation, must or can be sought. Would it suffice, for example, that the marriage

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to be contracted between the parties be publicly announced in the Church during the solemnities of the Mass, or that the parties, or one of them, confess their sins before the execution of the dispensation?

R. Separation is to be preferred to other means of repairing scandal; if this cannot be achieved, the scandal must be repaired, but the manner of repairing the scandal is to be left to the prudent judgment and conscience of the Ordinary, according to the needs of each case. In the case where separation is omitted, and the scandal is repaired in another way, let it be accepted; otherwise, if in any case the reparation of the scandal is omitted, let him be silent, and let him be more careful in the future.

[*Latin ed. p. 510*]

510 APPENDIX V. Secretum Penitentiariae Apostolicae, 8 Aprilis 1890. — Epistola Nicotrae et Tropiae. Dubium de impositione poenitentiae in dispensationibus matrimonialibus. In dispensationibus matrimonialibus expeditis a Secretum Penitentiariae Apostolicae, saepe, juxta causas expositas, inseritur clausula: "cum gravi et diuturna poenitentia salutari"; et in quibusdam aliis legitur haec praescriptio: "cum gravi poenitentia salutari." Attenta hodie dominanti corruptioni, pessimaeque voluntati dispensatorum, qui quidem labiis promittunt, ac deinde promissa non exsequuntur, atque etiam aliquoties impotentia eorum, eo quod a mane ad vesperam labori incumbere debeant, ut sibi victum comparent, quaeritur: — Potestne iniungi poenitentia per tres tantum menses, verum pluribus per hebdomadam vicibus adimplenda, quando praescripta est gravis et diuturna, ac per unum solum mensem, cum statuta fuit gravis poenitentia salutaris, idque ad evitandum novum sponsorum peccatum, stante firma certitudine, quod, celebrato semel matrimonio, iam nihil amplius curent, cum gravi propriae conscientiae damno? R. In praefinienda poenitentiae qualitate, gravitate, duratione etc., quae dispensantes aut delegati arbitrio iuri conformi remittuntur, neque severitatis, neque humanitatis fines esse excedendos, rationemque habendam conditionis, aetatis, infirmitatis, officii, sexus etc. eorum quibus poena irrogari iniungitur. Secretum Penitentiariae Apostolicae, 2 Iulii 1891. — Dubium quoad absolutionem a censuris praemittendam etc. Utrum casu quo nullam praevidet Ordinarius censuram ab oratoribus fuisse contractam, debet nihilominus Ordinarius, qui dispensationem matrimonialem vi alicuius indulti concedit, clausulam absolutionis ad cautelam praemittere, quam Sacra Poenitentiaria et Apostolica Dataria praemittere consueverunt. R. Absolutionem a censuris, in casu de quo agitur, laudabiliter praemitti. Sacra Congregatio Sacri Officii, 18 Martii 1891. — Declaratio quoad reticitam copulam. Dispensationes matrimoniales super quovis impedimento, sive agatur de matrimoniis invalide contractis, sive de contrahendis, esse validas etiam si copula, vel consilium et intentio per

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eam facilius gratiam impetrandi, relicita fuerint.

[*Latin ed. p. 511*]

APPENDIX. From the Sacred Congregation of the Council, August 27, 1658. – Regarding marriages to be celebrated in heretical temples, etc. Since in some of the aforementioned Provinces (of Belgium), political laws mandate that all Catholics who wish to enter into marriage must contract it in heretical temples, before a minister and a Calvinist congregation, using the following reciprocal formula of the betrothed: "I, N. N., take you, N. N., as my spouse, before this holy community," the following questions are asked: 1. Is this permissible? 2. Can a Catholic couple be joined in marriage immediately after they have contracted it before a minister and a Calvinist congregation, using that formula before this holy community, by a Catholic priest, before they repent of such a synagogue of heretics and acknowledge it as holy?

Answer: 1. No. 2. Those who have contracted marriage before such a community, acknowledging it as holy, and who then request to be joined in marriage before a Catholic priest, can and should be joined before they repent. However, they should be admonished out of charity to repent inwardly, and, if possible, to confess beforehand, and a suitable penance should be imposed upon them. Those, however, who first contracted marriage before a Catholic priest, should be warned not to present themselves to contract marriage before a heretical minister and congregation, using that formula before this holy community.

From the Sacred Congregation of the Council, November 29, 1672. – Concerning the custom of approaching a heretical minister after a Catholic marriage. In many places (and this custom has prevailed), Catholics who have been joined in marriage before a priest and Catholic witnesses, in order to avoid serious harm, also have themselves joined again before a heretical or Protestant minister. Can this custom be corrected by the clergy? Do those Catholics who are thus joined again before a heretical minister sin, and what sin is it? And how should the Ordinary of the place behave towards them?

Answer: As long as the minister assists at the marriages of Catholics as a political minister, the contracting parties do not sin; but if he assists as a minister devoted to the sacred rites, it is not permitted, and then the contracting parties sin mortally, and they should be admonished.

From the Sacred Congregation of the Council, May 9, 1821. – Mission of Kentucky. A question regarding marriage preceding Communion. It is customary for those who intend to celebrate marriage to approach [the sacraments], and some even receive Communion; is it permissible to ad-

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minister this Sacrament (of Marriage) before they receive Communion?

[*Latin ed. p. 512*]

512 APPENDIX V. It commonly happens that, after the marriage has been contracted, they return to vomiting and neglect everything. R. Pastors of souls ought to exert all their efforts in this regard, so that those about to marry are properly instructed in the fundamentals of Catholic doctrine, accustomed to confess their sins sacramentally, and to approach the Holy Table, and to ensure that the celebration of marriage is accompanied by the Holy Communion, purifying the souls that receive it. S. C. S. Office, December 20, 1837. — Ep. Barden (Bardstow or Louisville). Whether a missionary or bishop can assist in the marriage of heretics. He humbly explains that many Protestants, without any intention of embracing the Catholic religion, often request that they give their consent to contract marriage, either before one of their priests or before the bishop himself. It should be noted that in such circumstances, the bishop and priests act not as priests, but as civil magistrates, which is permitted by the laws of the republic. Now he asks whether it is permissible for missionaries and their superiors to preside over such marriages. R. If the marriage is between two heretical parties, such intervention is not so reprehensible that it can never be permitted, but it should generally be discouraged. However, if one party is Catholic, having obtained a dispensation from the impediment of mixed religion, and with the usual clauses and conditions observed, it is permissible. S. C. S. Office, February 21, 1883. — Vic. Ap. Bombayen. Regarding the Masonic oath in relation to marriage. Whether the Masonic oath, if not retracted, can be considered and treated as an impediment to marriage, or even as a dispelling impediment; and what precautions must be required so that the marriage of a Catholic girl with a French-Masonic man who has taken the oath can be lawfully or even validly blessed by the parish priest. R. With regard to marriage, in which one of the contracting parties manifestly adheres to secret societies, until the Apostolic See issues a general decree on this matter, it is necessary for pastors to act cautiously and prudently, and they should rather decide in particular cases what they judge to be more expedient in the Lord, than to lay down a general rule. In any case, the celebration of the Sacrifice of the Mass should be excluded, unless serious circumstances otherwise require it.

[*Latin ed. p. 513*]

513 *Acta Apostolicae Sedis*, Penance, Decree, December 10, 1860. — A doubt concerning the celebration of marriage by those under ecclesiastical censure. How should pastors act in celebrating the marriages of those who are manifestly subject to ecclesiastical censure? Response: It is necessary to strive, as far as possible, to ensure that those under ecclesiastical censure are reconciled with the Church in due form. However, if they refuse to

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reconcile, and if it appears that serious harm would result if the marriage were not celebrated, the pastor should consult with the Ordinary, who, after considering the circumstances and all that is taught by approved authors, especially by St. Alphonsus (lib. 6, tract. 1, cap. 2, no. 54), should declare what he judges to be most fitting in the Lord, always excluding the celebration of Mass.

(1) Thus, the Saintly Doctor writes: "It is asked whether a pastor can assist at the marriage of public sinners. It is certain that pastors are to refrain from celebrating the marriage of those who are ignorant of the Christian faith, as is stated in the Roman Ritual, in the section on marriage, at the beginning, where it is prescribed: The pastor must ascertain whether each of the parties (betrothed) knows the rudiments of the faith, so that they may then teach their children. Also, the Holy Congregation, convened before Innocent XII in the year 1697, as reported by Pope Benedict XIV (De Syn. 1. 8, c. 14), decreed that pastors should not proceed to the announcements unless they find that the parties are sufficiently instructed in the rudiments of the faith; and this decree was confirmed by Clement XI, as in his bullarium, and by our Pope Benedict in his Encyclical. But, besides this ignorance, can a pastor deny his assistance to sinners in marriage? If the parties publicly requested it, and were unworthy because of sin or censure, Lugo, Dist. 8, sect. 13, and Croix, no. 17, with Arriaga and others, rightly say that the pastor is bound to assist, according to what was said in no. 47. It is doubtful whether the pastor can be bound and obliged to assist if the parties are publicly unworthy. Layman, I, ii, tr. 10, p. 2, c. 4, no. 8, Croix, I, c., and Lugo, no. 205, with Praepos., say that, provided the pastor has first endeavored to prepare the parties to enter into the marriage worthily, the reason being that the pastor is not a minister of marriage, but only a witness; therefore, on the one hand, since he is a public minister, he cannot deny his assistance; and on the other hand, he can lawfully assist, since his cooperation is merely material. Others, however, deny that the pastor is the true minister of marriage; but this reason does not hold, for, as we will prove below in the section on marriage, no. 897, the ministers of marriage are the parties themselves, and the pastor is only a witness. Nevertheless, despite this, we do not agree with the first opinion, and we say that the pastor is not bound nor can he assist at such a marriage. The authority of Pope Benedict XIV, De Syn. 1. 8, c. 14, favors us, who teaches as follows: Although, according to the more common and accepted opinion, pastors are not the ministers of the Sacrament of Marriage, nevertheless, in many respects they are likened to ministers, and it is not lawful for their presence and authority to confirm a contract which they know is being entered into sacrilegiously by the parties. Our reason for this opinion is, first, that by natural law, no one can cooperate in the sin of another, even if the other commits the sin internally, as we said in the book on charity, lib. 2, no. 47, and so also in our case, the pastor; second, that the pastor is bound by

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justice, by the contract he entered into with the community from which he receives his salary, to care for the spiritual well-being of his flock, warning them from sin. It cannot be said that the parties have a right to have the pastor assist at their marriage. For it is answered, first, that no one can have a right to an action in which sin is committed; *Acta*, Vol. XXVI, page CCCIX, 33.

[*Latin ed. p. 514*]

514 APPENDIX V. Secretum Penitentiariae Apostolicae, 10 Iunii 1876. — Quaestio de clausula quae saepissime adhibetur in dispensationibus. Utrum non observatio clausulae quae saepissime adhibetur in dispensationibus: erogata aliqua dispensatione, eleemosyna, iudicio Ordinarii, secumferat nullitatem?

R. Negative. Secretum Congregationis Sacrorum Officiorum, 2 Decembris 1850. — Vicarius Apostolicus Sandvicensis. Dubia de matrimoniis.

1. Secundum legem patriae, possumus et coniungimus catholicos cum catholicis, catholicos cum haereticis, catholicos cum infidelibus, haereticos cum haereticis, haereticos cum infidelibus, infideles cum infidelibus.

2. Pro catholicis cum catholicis, sequimur accurate ritum, et semper curamus ut eos antea confiteantur.

3. Pro catholicis cum haereticis aut infidelibus, confitemur antea, pro maiori salute, partem catholicam, et contenti sumus postea petere consensum utriusque partis.

4. Pro aliis, non petimus nisi consensum.

5. Non est dubium quod, virtute potestatis nostrae, possimus coniungere catholicos cum catholicis, catholicos cum haereticis aut infidelibus. Sed possumusne, cum conscientia pura, sicut simplices officiarii civiles, accipere consensum haeretici cum haeretico, haeretici cum infideli, infidelis cum infideli, qui non intendunt coniungere nisi secundum sensum et terminos legis civiles quae admittit divortium?

6. Cum partes quae coniungimus non sunt utrae catholicae, possumusne coniungere iterum illam quae obtinuit litteras divortium?

Respondetur: 2. Sponsi tantum habent ius ad assistentiam parochi, inquantum hic tenetur ex officio incumbere eorum bono spirituali; unde cum in hoc parochi assistentia non conferret ad bonum, sed ad ipsorum ruinam, ideo nec sponsores ius habent, neque parochus tenetur assistere: imo debet suam assistentiam negare, cum praecipua eius obligatio sit impedire peccata ovium suarum. Et quod dicimus de parocho, dicendum est etiam de testibus; qui tamen satis excusarentur a peccato, si assisterent coacti metu gravi, cum ipsi non teneantur, nisi ex caritate, impedire peccatum. Parochus autem etiam excusari potest ad vitandam mortem, vel alia graviora mala communitatis, vel ipsorum contrahentium, puta ne ipsi persev-

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erent in peccato.

[*Latin ed. p. 515*]

APPENDIX V. 515 7. If (may it not please God) two Catholics were to be married by Calvinist ministers with the intention of only entering into marriage according to the sentiments and terms of civil law, which admits of divorce, could the party who obtains permission from the government to marry another be remarried? 8. Our conduct, in this case, is to marry indiscriminately, and even to remarry all those who obtain permission from the government to marry. We are inexorable only towards Catholics, whom we would have validly married, and who, in virtue of the law of divorce, wish to marry again.

R. Ad i. *Providebitur in sequentibus.* (This will be provided in what follows.) Ad 2. *Bene et rite se gerere.* (To act well and properly.) Ad 3. The reason (or manner) described there for uniting the contracting parties, of whom we are speaking, is not at all forbidden, provided that consent is given outside the Church without any blessing whatsoever, as rightly commanded by Pope Benedict XIV in the synodal decrees of the diocese, book 5, chapter 5, section 5, and provided that the conditions mentioned below are observed. Ad 4. *Providebitur in sequentibus.* (This will be provided in what follows.) Ad 5. Regarding the first part of the question, the Sacred Congregation of Propaganda should examine whether the Orator and his missionaries truly possess the faculty of dispensing in cases of impediments arising from mixed religions and disparities of worship. However, the aforementioned Apostolic Vicar should be reminded that marriages of this kind are always to be detested and never blessed by a Catholic priest; and they must be contracted outside the doors of the Church, after having previously fulfilled the three usual conditions, namely, the education of all the children in the Catholic faith, the free exercise of the Catholic religion, and the effort to convert the other party to the true faith. Regarding the second part of the question, it is forbidden for the missionaries in question, considered in any respect, to receive the consent of heretics with heretics, or of infidels with infidels, among themselves. If the Apostolic Vicar foresees very serious damage to the Catholic religion resulting from the refusal of this assistance from the missionaries, he should know that, in such a case, the missionaries should not be disturbed for the time being. But he should, as quickly as possible, report everything to this Holy See, carefully and accurately stating what and how much the damage would be; he should also report with the utmost precision all the circumstances of place, time, and persons; and finally, he should report whether our Catholics or others would suffer scandal because of the assistance of these Catholic priests, so that the Holy See, after mature deliberation, may decide whether the

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missionaries can be allowed in that region.

[*Latin ed. p. 516*]

516 APPENDIX. V. It is permissible to allow them to be present at the aforementioned marriages as, they say, civil officials, or as qualified and authorized witnesses, solely by exhibiting their material and passive presence, without any sign of approval and without any blessing. Regarding 6 and 7. It is not permissible unless it is first established that there was no previous marriage, either because of a law of divorce that has been agreed upon, or because of some other impediment that is canonically valid. 8. The practice of which we are speaking is entirely to be avoided, especially if it concerns marriages between Catholics and heretics and infidels. As for the assistance that our missionaries provide to heretics contracting marriage among themselves and to infidels, the aforementioned missionaries cannot lawfully assist them, as was stated above in response to the second part of the fifth question. From the Instruction of the Sacred Congregation of the Holy Office, December 18, 1872. — (To the Vicariate Apostolic of Oceania Central.) A doubt concerning the application of matrimonial dispensations. Your Eminence has added (doubts) "concerning the application of matrimonial dispensations, the first of which was this: A neophyte, born on an island of infidels, returning to his homeland, where he may perhaps prepare the way for the faith, requests whether he himself can enter into marriage on that island, which is very distant, where there is no missionary, and no recourse to a missionary will be possible for one, two, or three years. The neophyte cannot remain chaste, especially among the dissolute morals of the pagans, and far from the Sacraments. There is no baptized girl to be found there, or, if there is one, she may not be suitable for him. It is asked whether, in this particular case, and for one or the other reason only, a dispensation from the impediment of disparity of cult can be validly and lawfully granted to this neophyte in advance, without naming the person who is to be joined to him, which person has not yet been determined. If not, can the impediment of disparity of cult, which is an ecclesiastical impediment, be declared to not exist in this case?" The Sacred Congregation responded: "Regarding the first part: Negatively, and with the understanding that Your Eminence should provide, through suitable means, for the Vicariate Apostolic to grant dispensations in two or three cases to the neophyte, either by himself or by his Helper, in advance, without naming the person, regarding the impediment of spiritual kinship, so that a woman may be converted, and, if no other Catholic person is available, she has been baptized by him, so that she truly repents, from the impediment of disparity of cult, under these conditions, namely, in..."

[*Latin ed. p. 517*]

APPENDIX V. 517 In this other case, the conditions to be imposed on

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the neophyte are that he diligently strive for the conversion of the woman he has chosen, and in the meantime, he must demand from her a sworn promise that she will ensure that the children are raised in the Catholic religion, and that she will never place any impediment, either to himself, that is, to the neophyte himself, or to the children, in the practice of the Christian religion. Regarding the other party, see "Provision in the first [case]." His Holiness has graciously deigned to grant these faculties in three cases. Another question was this: "A certain missionary was granted a dispensation regarding an impediment, but the impediment was connected with a censure. Is this dispensation valid if the confessor himself granted it? Is it also valid if another priest granted it, who was unaware of the censure?" The Holy Congregation responded: "Regarding the confessor who granted the dispensation during the act of confession, after absolution has been given: Affirmative. Regarding a priest who granted the dispensation outside of confession: Negative." Sacred Congregation of the Holy Office, June 15, 1875. – Saint Lewis in America. Question regarding the omission of a clause in the faculties, etc. Can a dispensation regarding matrimonial impediments, granted by the Ordinary according to the usual Apostolic faculties, be valid, although gravely illicit, when it was given informally because the terms of the faculty delegated by the Holy See, or the time to which it applies, were not expressly stated, or because it was granted in a few words by telegraph, or only orally? This question arises from the omission of a clause in the ordinary faculties now granted in America, which clause had previously been expressly included in such faculties. Answer: Affirmative, provided that the woman was not actually abducted, or, if she was abducted, is not under the power of the abductor. The clauses must be observed as much as possible, insofar as matters, times, and places to which they can be applied allow. Instruction of the Sacred Congregation of the Holy Office, February 17, 1864. – (To the Bishops of the Kingdom of Hanover.) Regarding marriages to be entered into between heretics. It is not unknown that in some places, a minister of the heretics acts as a mere civil magistrate, before whom spouses often appear, or even must appear, for political reasons, namely, so that they may be considered civilly honest spouses, and their offspring considered legitimate. Then, when the heretics are pressing...

[*Latin ed. p. 518*]

518 APPENDIX V. It is not disapproved that the Catholic party, together with the heretical party, may present themselves before or after the contract for a marriage according to the form of Trent, even before a minister attached to heresy, solely for the purpose of fulfilling a civil act. Indeed, regarding a doubt previously expressed in this manner: "Whether a Catholic can lawfully ratify a marriage before his own Catholic priest, when contracting with a heretic, even if urged by heretics, before a minister of the

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heretical sect, if no profession of the heretical rite is made or inferred, and if whatever the heretical minister does in this case is solely for civil and political benefit, and is considered as such?" – the response from the Holy Congregation was: "Affirmative." For it is true that whenever a heretical minister is considered as being devoted to the sacred rites, and as performing the office of a priest, it is not permissible for the Catholic party, together with the heretical party, to give their matrimonial consent before such a minister, because in doing so, the Catholic party would be participating in a certain religious ceremony, and would thus be associated with the heretical rite, from which would arise a certain implicit adherence to heresy, and therefore it would be entirely unlawful to have communion in the divine things with heretics. Therefore, even if this pernicious custom has taken root to such an extent that it cannot be easily corrected by the clergy, it must nevertheless be eradicated with all diligence and zeal. And indeed, Benedict XIV clearly teaches that it is not permissible for those contracting marriage to appear before a minister of the heretical sect, as if he were assisting as a minister devoted to the sacred rites, because the contracting parties would be committing a mortal sin and should be warned. Therefore, it is fitting that pastors and missionaries, having been instructed and warned by you, should teach the faithful, both publicly in church catechisms and privately in instruction, about the constant doctrine and practice of the Church, so that they may, as far as possible, be turned away from mixed marriages, but if that is not possible, that they may altogether avoid celebrating marriage before a heretical minister devoted to the sacred rites, which is in every way unlawful and sacrilegious. Thus, the response was given to the Ordinary of Treves, on the 4th of April, 1847. Furthermore, pastors should know that if they are questioned by those contracting marriage, or if they certainly know that they will go before a minister of the heretical sect to give their matrimonial consent, they cannot remain silent; but they must warn those betrothed of the grave sin they are committing, and of the censures into which they will incur. However, if, in a particular case, the pastor has not been consulted by the betrothed, and if there is no explicit declaration from them about going before a heretical minister, but it is foreseen that they may perhaps go to renew their matrimonial consent, and furthermore, from an add-

[*Latin ed. p. 519*]

APPENDIX. V. 519. In such cases, it must be foreseen that a warning will not be helpful, but rather harmful, and that a material fault must therefore be converted into a formal guilt; and then, after the scandal has been removed, and provided that all other conditions and precautions required by the Church have been duly observed, especially with regard to granting the Catholic party freedom of religious exercise, and also with regard to the upbringing of all the children in the Catholic religion, if, nevertheless,

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the parties wish to renew their consent before the parish priest, after it has already been given before the heretical minister, and this is publicly known, or is notified to the parish priest by the parties themselves: the parish priest shall not intervene in this marriage, unless, as is presumed, the conditions are observed; otherwise, the Catholic party, having made the necessary salutary acts of penance, must first obtain absolution from the censures incurred. Therefore, the Holy Congregation places great trust in the Lord that you will adhere prudently and firmly to the foregoing, so that the inviolable deposit of doctrine may be preserved, the conduct of Catholics may correspond to the faith, apprehended damages may be avoided, and the faithful, strengthened by doctrine and example, may proceed along the paths of justice. S. C. S. Office, January 2, 1888. — Ep. Vizagapatam. Doubts regarding marriages entered into according to the rites of the Gentiles. 1. Can the Bishop consent to two catechumens who are urged by the greatest necessity to marry each other as soon as possible, and to contract marriage according to the rites of the Gentiles, so that, namely, the girl is not forced by her parents to marry a pagan and married man, to be advised to, according to the custom of the Gentiles, omit the carefully prescribed idolatrous ceremonies, and to contract marriage? 2. Does it sometimes happen that women easily obtain the permission to take care of the baptism of their daughters? Is it permissible for the Bishop, before admitting them, to inform them that, after the children have been baptized, the marriage must be celebrated in the Church? Or is it better to instruct them in the Christian doctrine, without mentioning the special obligations of this kind? R. To 1. As proposed, affirmatively. To 2. Catechumens should generally be warned before baptism about the obligation to renounce superstitious rites, and in particular those that are practiced by the Gentiles in the celebration of marriages; however, the Bishop may, if serious reasons suggest it in a particular case, postpone this warning until after baptism, provided that the conditions for doing so are observed. If both parents are non-believers, they should be baptized, provided that in each case there is no foreseen serious danger of perversion, and provided that it is not established that the parents are offering their children for baptism out of superstition.

[*Latin ed. p. 520*]

520 Decree of the Sacred Congregation of Rites, Appendix V, March 3, 1818. – Doubt concerning the Mass for the bride and groom. By a general decree issued on December 30, 1783, and confirmed by the Most Blessed Pope Pius VI on January 7, 1784, it was declared that in the celebration of marriages which takes place outside of Sunday or another feast day of precept, or on a day on which a feast of the first or second class occurs, even if the Office and Mass of the feast of the first or second class are to be said, the Mass for the bride and groom should be said at the end of the Missal, after the other votive Masses, specifically designated

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for that purpose; but on Sundays and other feast days of precept, and on feasts of the first or second class, the Mass of the feast should be said, with the commemoration of the Mass for the bride and groom. However, since some doubts have arisen concerning the rubrics to be observed in celebrating this Mass, and the opinions of the pastors are varied, since some believe that the Angelic Hymn should be added to this Mass, since it is at the end, while others believe that even the Nicene Creed should be recited, relying on the reason that this Mass should be considered solemn and of great importance; therefore, in order to eliminate controversies and doubts, and to ensure that a single and uniform rite is observed by all, the Sacred Congregation of Rites, after mature deliberation, declared and decreed that, while the provisions of the aforementioned decree remain in force regarding the designation of the days on which the votive Mass for the bride and groom may be celebrated, this Mass should always be considered a private votive Mass, and therefore should always be said without the Angelic Hymn and the Nicene Creed, with three prayers: namely, the first prayer proper to this votive Mass, as found at the end of the Missal, the second and third prayers of the day, as indicated in the Rubric (Title VII, number 3, Concerning Commemorations), the "Benedicamus Domino" at the end, and the final Gospel of Saint John. And thus it decreed on February 28, 1818. After a report was made to His Most Holy Lord, Pope Pius VII, His Holiness approved the aforementioned decree, confirmed it, and ordered it to be promulgated and made public. Sacred Congregation of Rites, April 20, 1822. Derthonen. – Doubts concerning the Mass for the bride and groom. 1. Can this Mass (for the bride and groom) be said on days of the first or second class, such as within the octave of the Epiphany, on the eve of Pentecost, and within the privileged octave of the Most Holy Body of Christ? 2. Should the commemoration of the Mass for the bride and groom, which is to be said, as stated in the aforementioned decree, in Masses of the first or second class, be said under a single conclusion with the prayer of the feast, or under a different conclusion?

[*Latin ed. p. 521*]

APPENDIX V. 521 3. Should such a commemoration also be recited, or under a different conclusion, as is customary with other commemorations occurring on Sundays and holy days of precept? 4. In what place, when other commemorations occur, as in the preceding question, should the commemoration of the Mass for the bridegroom and bride be recited, under the second conclusion, that is, in the last place?

R. To 1. Negatively, concerning the Octave of Epiphany, the Vigil of Pentecost, and the privileged Octave of the Most Holy Body and Blood of Christ, inasmuch as a privilege has been granted in the manner of the Octave of Epiphany. To 2. Negatively, regarding the first part, affirmatively, regarding the second part. To 3. As in the preceding. To 4. It should be

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performed first, after other commemorations of precept.

S. C. S. S. Rit. August 31, 1839. From Montis Pessuian. Concerning marriages celebrated during a prohibited time.

1. When marriages are celebrated during the time of Advent or Lent, should the commemoration of the Mass for the bridegroom and bride be performed through the Collect, Secret, and Postcommunion?

2. Is it permissible to recite the prayers or orations for the newlyweds, which are found in the Missal, after the Lord's Prayer, and the "Ite Missa est"?

3. When the aforementioned prayers are not recited in the marriage Mass, should they be recited outside of Mass, after the prohibited time has elapsed?

R. The rubrics of the Missal and the general, previously decreed regulations must be observed, which state that, since the solemn blessing of marriages cannot take place during times prohibited by the Church, so too the commemoration for the bridegroom and bride is likewise prohibited in a Mass occurring during such a time, nor should the prayers be recited outside of Mass, even after the prohibited time has elapsed.

5. C. de Prop. Fide C. P. pro Sin. July 21, 1841. Vic. Ap. Tunk. Concerning the blessing of marriages.

Official.

1. Does the nuptial blessing, which is in the Rituale, prohibit being given during a prohibited time? Or is only the blessing found in the Missal prohibited during this time?

2. To the extent that the first part of the aforementioned question is affirmative, is it at least permissible, with the permission of the Apostolic Vicar, to give the Rituale blessing during a prohibited time, both to those already married, as well as to those intending to be married? To the extent that the second part of the first question is affirmative, is it...

[*Latin ed. p. 522*]

522 APPENDIX V. Can the Apostolic Delegate permit that, even during a prohibited time, the blessing from the Missal be given, at least to those already joined in matrimony in the absence of a priest and without that blessing? And if the answer is negative to the first part of this second doubt, I humbly request this permission.

3. Can the blessing that is in the Missal be given to those who are already joined in matrimony, in the first marriage, when the woman is already pregnant, or has already given birth to children? Also, to those who are contracting matrimony here and now, in the first marriage, when the bride is known to be pregnant, or has already conceived children from fornication before the marriage?

4. When the nuptial blessing is given to those who are already validly

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joined in matrimony, must the formula be recited: "I join you together in matrimony," without a renewal of consent? What if there is doubt (as is often the case) whether they have validly contracted marriage or not?

5. Is it necessary that both of those who are already validly joined in matrimony be in the state of grace in order to lawfully receive the nuptial blessing, whether it is the one in the Rituale or the one in the Missal, and that they seek it not for the validity of their marriage, but only so that the dignity of the Sacrament may not be lessened, and so that they may receive spiritual benefits from this blessing? In the aforementioned case, can and should the priest exhort them to present themselves to receive the nuptial blessing? What if one party is capable of absolution, and the other is not?

R. To 1. Negatively to the first part, provided that there is no custom of not contracting marriage, even without solemnity, during a prohibited time; affirmatively to the second part. To 2. Affirmatively to the first part, as long as the aforementioned custom exists; negatively to the second part, but petition the Most Holy Father for permission. As was graciously conceded in the form of concession for the Apostolic Vicar of Sutchuen in the year 1796. To 3. Affirmatively. To 4. To the first part: Refer to the instruction of the year 1806 (1). To the second part, consult approved authors. To 5. To the first part, it is fitting; to the second part, provision is made in the first.

(1) Thus is the instruction of the year 1806: "Concerning only the blessing of marriage," to those who are validly married, and have already validly contracted marriage, the priest, requested by the spouses for the "nuptial blessing," should rather declare to the spouses that such a blessing, although useful and salutary, is not necessary for the validity and indissolubility of their marriage, and therefore should recite over the spouses what is prescribed in the Roman Rituale, without asking them for a renewal of consent, and without pronouncing the words: "I join you together in matrimony, etc."

[*Latin ed. p. 523*]

52a. ENCYCLICAL LETTER from Our Most Holy Father Leo XIII, Pope, on Divine Providence, addressed to the Bishops of Poland, whom He praises for their perseverance in the face of persecution, for their favor towards the faith, and He exhorts them to constancy. A particular testimony of Our charity and concern for you is that which We have shown to other Catholic peoples, by sending, in individual letters to their Bishops, documents of Apostolic exhortation; and We have long desired to be able to offer you the same opportunity. For We regard every people, of whatever race, language, religious rite, with the same care and affection; and We think of them only with the most pleasing sentiments, remembering the glorious deeds of the past, and constantly acknowledging the great piety with which We are joined to them. — Among other praises, due honor remains to those fathers of yours, who, trembling at the onslaught of

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powerful enemies of the Christian name in Europe, stood as the first defense of their breasts, opposing them with valiant battles, defending the religion and the civil order, and guarding against the most heinous heresies. For these merits, We have publicly commemorated them with joy not many months ago, when some of you, Venerable Brothers, brought us a pious gathering of the faithful, congratulating us; and because of this beautiful testimony of faith, an opportunity arose to praise the life of religion, and, for many things and difficult cases, We congratulate Poland in turn. — Indeed, if, as far as is in Our power, We have not hitherto failed to be of service to you, We desire to be able to do even more, and We intend to accomplish this in the present; for the purpose is to make Our solicitude more openly known to the Church, and also to strengthen and encourage all of you in the Catholic profession, with virtues renewed, and with assistance increased. And We have undertaken this with the more eager hope, because We know and have observed that you, Venerable Brothers, are accustomed to interpret Our will with diligence and to serve in the best interests of your flocks. And may God, who moved us to speak, also be so good as to grant that these things may bear excellent fruit.

[*Latin ed. p. 524*]

§24 ENCYCLICAL LETTER: The benefit of divine truth and grace which our Lord Jesus Christ has brought to the human race is of such excellence, utility, and value, that nothing else can be compared to it, much less equaled. The virtue of this benefit, as all know, is manifold, most salutary, and flows abundantly to individuals and to all, to the domestic society and to the civil society, aiding the prosperity of this temporal life and contributing to the attainment of the happiness of eternal life. From this it is clearly evident that the Catholic religion, having received so many gifts, as from the source of all good, is likewise subject to the greatest obligations concerning its cultivation and direction. At the same time, it is evident that this is not a matter that each individual or each state can freely determine according to its own judgment, but rather that it must be governed by the rule, discipline, and order which the divine Author of the religion Himself has defined, namely, by the teaching and guidance of the Church, which He has established as a "pillar and foundation of the truth" (1), and which, by His steadfast promise, has flourished and will be continued, in every age: "Teaching them to observe all things whatsoever I have commanded you. And behold I am with you all days, even to the consummation of the world" (2). Therefore, it is just that your people have always held this most honorable religion in high regard, because the Church, as a mother, has always been faithful to them, and has persevered in equal obedience to the Roman Pontiffs and in the service of the sacred pastors, whom they rightly recognize as their leaders. And although many advantages and blessings have flowed to you, which you have experienced

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in these present times, and although you may possess many material goods, you are nevertheless grateful in your hearts, and you give thanks. It is manifest daily what momentous consequences follow for peoples and states, whether the Catholic Church is observed and held in due honor, or whether it is unjustly injured, despised, or harmed. When, in doctrine and law, the people are not instructed in the way of salvation and the perfection of man, when they are not instructed in faith and knowledge, and when they are not guided in the practice and actions of life, but are led astray; when the Church, by divine right, is unable to transmit its doctrine and to safeguard religion; then, for this reason, it loses its divine power as a regulator of human society, and it ceases to be a source of generous virtues and the most excellent of goods. But the Church, over which the Roman Pontiff presides by divine right, is so great that... (1) 1 Timothy 3:15 (2) Matthew 28:20.

[*Latin ed. p. 525*]

ENCYCLICAL LETTER: With such amplitude of authority, nothing can be denied to it by right, nor can it tolerate the oblique endeavors of anyone, but rather, consulting with the highest and most intimate equity, it ought to present itself as the most vigilant mother and guide to all. Therefore, those who do injustice to it, even by repeating those very calumnies, which have been refuted so many times and are plainly false, bring to light new species of detraction, and ought to be blamed. Likewise, those who distrust the Church for the same reason, and who sow suspicion among the rulers of states and in public assemblies of lawmakers, to whom the Church owes so much and to whom it renders so much grace, are to be reprehended. For it teaches and commands nothing that would in any way harm the majesty of princes, the safety, or the progress of the people; on the contrary, it constantly offers much that is beneficial for the common good. Let these things be remembered and considered: princes ought to understand that their rule refers to the image of divine power and providence in men; their empire ought to be just and an imitation of the divine, tempered by goodness and paternal care, and ought to regard only the benefits of the state; and they ought to render an account to God, the Judge, for it, a duty of the highest dignity. Those who are under their authority ought constantly to observe reverence and fidelity to their princes, as to those who exercise the kingdom of God through men, and ought to obey them, not only out of fear, but also out of conscience (1), and ought to offer prayers, supplications, and thanksgivings (2) for them; they ought to maintain the sacred order of the state; they ought to abstain from wicked machinations and factions, and to do nothing that is seditious; they ought to contribute to maintaining a just and peaceful tranquility. These and similar precepts and evangelical teachings, which the Church so strongly encourages, do not cease to produce the most excellent fruits where they are practiced,

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and they produce even more abundant fruits in those nations in which the Church exercises its ministry with greater freedom. But those who reject these precepts and refuse to follow the guidance of the Church, reject the will of God and cast aside a most valuable benefit; nothing can truly prosper and remain honest in a state if all things are mixed with disorder, and both rulers and people will be consumed by a flood of calamities. (1) Hom. XIII, 5. (>) 1 Timothy I, 1-2.

[*Latin ed. p. 526*]

326 ENCYCLICAL LETTER, Venerable Brothers: As we have already explained more fully in previous documents, it seemed opportune to reiterate certain points, so that your efforts, spurred on by a renewed sense of our authority, may be more vigorous and fruitful. It is certainly most desirable and beneficial that your congregations be vigilant against the machinations of turbulent men, who, with the most deplorable audacity, dare to attempt to subvert and destroy the foundations of empires; that no aspect of public life, which contributes to the common good, be neglected; and that, from the faith due to God and the sacred bonds of society and rulers, a flourishing of both civil and religious life arise. Furthermore, attention must be given to domestic society, to the upbringing of youth, and to the establishment of the sacred order, as well as to the best ways of practicing Christian charity with diligence and piety.

The integrity and honesty of domestic life, from which the health of civil society primarily springs, must first be maintained through the sanctity of marriage, which, according to the precepts of God and the Church, is a union of one flesh. Then, the rights and duties between spouses must be inviolably observed, and harmony and charity must be cultivated to the greatest extent possible; parents must provide for the upbringing and well-being of their children, especially their education; and they must set an example in their own lives, for there is nothing more effective than their own conduct. However, it must never be considered that the proper and virtuous upbringing of children can, as it were, succeed without constant and diligent attention. Moreover, schools and institutions should be avoided where false doctrines or errors about religion are taught, or where impiety reigns; but also those institutions and schools should be avoided where there is no instruction or discipline concerning Christian principles, morals, or useful matters. For those who are educated in letters and the arts, it is necessary that they also be educated in the knowledge and worship of divine things, since, as nature itself reminds them, and even more so, civil society, they owe everything to God, who has brought them into this world, and that, just as they serve the state, they should diligently direct their studies towards the heavenly homeland and strive to achieve it. In this endeavor, no effort should be spared, especially as civil society progresses; indeed, we must insist even more strongly, now that the youth are increas-

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ingly agitated by the desire for knowledge, and now that the dangers to the faith are increasing daily, which we deeply lament. As for the method of imparting sacred doctrine, it depends on the probity and expertise of the teachers, and on the…

[*Latin ed. p. 527*]

ENCYCLICAL LETTER 527, concerning certain matters which the Church deems necessary to safeguard, and certain things which it wishes to prescribe, thus providing for the common good; and it cannot fail to do so, for it discharges the most grave office of preventing anything that might, through any means, be alien to the integrity of faith or morals, and thus harm the Christian people. – Moreover, that sacred institution, which is imparted in schools, should confirm and complete what is observed at certain times and according to prescribed rules in courts and temples, where the seeds of the same faith and charity are, as it were, nurtured and developed more abundantly in their proper soil. These things urge us, with singular diligence and effort, to instruct the clerical order; for, by divine grace, this order ought to grow and hold fast to its sacred purpose, so that it may be the salt of the earth and the light of the world. Both praises, which are especially deserved through sound doctrine and the sanctity of life, must be diligently sought by young clerics, and yet, no less, must be preserved and fostered in the adult clergy, who are closest to the consummation of the saints in the work of ministry, in the edification of the Body of Christ (1). – Concerning the sacred seminaries of the clergy, it is well known to Us, Venerable Brothers, that they are not lacking in anything; rather, it is fitting that you, and all those who rejoice in their work of providing for and teaching, should testify to this, and that you should strive to promote and improve them diligently. Indeed, in these times which have befallen the Church so unjustly, when the enemies of the truth grow stronger, and when the pestilence of corruption spreads not secretly, but openly in all things, greater encouragement and remedies are needed for the priestly order; and therefore, it is necessary that it be prepared with greater care and training for the good fight of faith and for the full measure of all virtue. The norms which We have repeatedly provided concerning the direction of studies, especially in philosophy, theology, and biblical studies, are known to you; We urge you to ensure that teachers diligently compose their lessons, and that they do not omit anything from the instruction of others, which is adorned with these more important subjects, and which adds commendation to the priestly office. Similarly, We urge you, moderators of discipline and piety (men who ought to be distinguished above all for integrity and prudence), to so govern the common life, to so mold the minds of the students, and to exercise them, that virtues appropriate to their calling may flourish.

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(1) Eph. IV, VI.

[*Latin ed. p. 528*]

528 To the bishops, may the light of truth shine brightly: and furthermore, let it be understood that they should diligently learn and maturely instill prudence in those matters which pertain to civil authority. For just as those sacred institutions are like a new arena and camp for the soldiery, and are excellently equipped, so too may they provide assistance to those who toil in dust and sun, and may they refresh the weary and amply reward the deserving. However, you readily see, in the very performance of sacred duties, how much danger virtue and solid principles face, and how easily human beings can falter in their intentions and fail in their endeavors. Therefore, let your care extend to providing priests with what is necessary so that they may cultivate and increase their studies, especially so that, with their spirits restored and strengthened, they may devote themselves to the perfection of their own souls and to the eternal salvation of others. – You, Venerable Brothers, if you have instilled in your clergy the proper teachings and have approved of them, you will see that the pastoral mission entrusted to you not only alleviates, but also abundantly produces the most desirable fruits: and we trust that this will be the case, through the example of the clergy and their active charity. Following the precept of that charity, which is so great in Christ, let all things be commended to everyone, and let each one strive to fulfill it, as the Apostle John reminds us in his first epistle: for there is no other bond or safeguard for the strength of families and of states, nor, which is more important, for attaining the merits of Christian dignity. Considering these things, and deploring the many evils and bitter consequences that so often result from the neglect of this precept, both publicly and privately, we have frequently expressed the voice of the Apostolic See: in particular, through encyclical letters, beginning with *Novarum Rerum*, in which we laid down principles more suitable for resolving the matter of the condition of workers, according to the truth and justice of the Gospel. Let us now renew this admonition. It is evident that Catholic institutions, guilds of artisans, associations of those who help one another, and similar organizations, possess a great power and are effective in alleviating the hardships of the poor, in strengthening the weak, and in educating the people; for, by offering counsel or authority, money or work, to those in whose welfare the salvation of many, even eternal salvation, is at stake, they give a true witness to their faith and to their concern for their fellow citizens.

[*Latin ed. p. 529*]

ENCYCLICAL LETTER 529. To the Polish nation, we deem it fitting to address certain matters, which, considered individually, we believe will be useful to you, depending on your circumstances; and therefore, from

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among those things which we have presented, it is desirable that you choose some with greater care. — Firstly, you, who are numerous and subject to the Russian Empire, are rightly deserving of our praise and encouragement in the name of the Catholic profession. The principal aim of our exhortation is that you maintain, with steadfastness, the spirit of constancy in the holy faith, and that you cherish it, for in it you possess that good which, as we have said, is the source and foundation of all other goods. This Christian spirit, above all other things, ought to be held in the highest regard; it must not be abandoned by any difficulties, but must be guarded with all strength and effort; and, supported by this virtue, you must await, with unwavering certainty and patience, whatever events human affairs may bring, from God, who remembers you. — As for the condition of your affairs, we, in our office, are aware of it; and this knowledge fills us with great confidence in you, as in our children. Therefore, we urge you, rejecting all deceits that may be intended against our benevolence and concern for you, to be thoroughly convinced that neither we, nor our predecessors as Popes, have ever failed to provide for you, as for all your people, and that we intend to do so; and that, in order to sustain your trust, we have used and will continue to use all means and labor with confidence. It is pleasing to recall that, from the very beginning of our pontificate, we have considered the restoration of the Catholic faith here, and have, through the Imperial Council, undertaken appropriate measures to ensure that they would appear to promote both the dignity of this Apostolic See and the protection of your interests. From these efforts, it resulted that, in the year 1882, certain agreements were established, among which were these: that the bishops would have full freedom to regulate, according to the canonical laws, the seminaries for clerics; that the ecclesiastical academy of St. Petersburg, which also receives Polish students, would be fully entrusted to the jurisdiction of the Archbishop of Mogilev, and that, for the greater benefit of the clergy and the Catholic religion, certain laws, which your clergy had previously feared would be abrogated or mitigated, would be accepted. At that time, we never, either by word or deed, did anything that could cause you concern.

[*Latin ed. p. 530*]

530 ENCYCLICAL LETTER: Given the circumstances, we deem it necessary to reiterate agreements reached. Indeed, these very same appeals have been presented to the most powerful Emperor, to whose friendship and outstanding sense of justice we have earnestly testified in your cause; and we do not cease to offer prayers to Him, for "the king's power is given him of the Lord" (1). — You, Venerable Brothers, continue to defend the dignity and sacred rights of the Catholic religion with us. These can truly flourish and bring forth the benefits they promise, when justice, security, and liberty are established with suitable safeguards, and when, as far as

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possible, they are openly promoted. Since you yourselves perceive how much effort we have devoted to restoring public order and maintaining it among the nations, do not cease to strive that the observance of higher authorities and obedience to the laws may be maintained with greater firmness, and that, thus, all causes of offense or reproach may be removed, and that every semblance of injustice may be converted to reverence, so that the Catholic name may be praised and increased. — Furthermore, it is incumbent upon you to ensure that nothing is lacking in the salvation of the faithful, neither in the administration of ecclesiastical affairs, nor in the preaching of the divine word, nor in the fostering of religious spirit; that young people, especially in schools, may be diligently instructed in the sacred teachings, and that, as far as possible, the efforts of priests, to whom this has been legitimately entrusted, may be employed; that the practice of divine worship and the due reverence of sacred things, and the solemn observance of feasts, may fully correspond to the faith and bring about a good increase. You have acted most rightly in taking precautions against any distinctions that might arise in these matters; and if any doubts should arise, you should seriously and prudently appeal to this Apostolic See. May such distinctions be absent, and may only good and harmonious outcomes occur, not only for the Polish people, but for all those who are educated in the true interests of the common good, so that they may be grateful and rejoice. For the Catholic Church, as we have taught from the beginning and daily proclaim, is so constituted and established that it always brings to cities and peoples, not detriment, but countless and glorious benefits, both in matters of faith and in matters pertaining to this life.

3 (1) Proverbs 21:1.

[*Latin ed. p. 531*]

ENCYCLICAL LETTER 531. Furthermore, those of you who are under the jurisdiction of the House of Habsburg, consider in your hearts how much you owe to the most august Emperor, a most devoted advocate of the ancestral religion. Therefore, may your faith and grateful obedience to Him be made ever more evident: may it be evident that you are striving, not unlike others, to pursue all things that are either already well-established for the safety and dignity of the Catholic religion, or that circumstances suggest should be established. — We greatly desire that the University of Cracow, an ancient and noble seat of learning, may maintain its integrity and excellence, and that it may strive to emulate the praises of such Academies, which, with the support of distinguished bishops and the generosity of private individuals, have flourished greatly in these times. As in those [other academies], so in yours, may our beloved sons, the Cardinals and Bishops, with their prudence, guide the most important disciplines, so that, as they illuminate and strengthen, they may provide as much support as possible for its defense, and that they may be of ever greater benefit to the most select

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youth in all areas. — Moreover, it is of great interest to us, and certainly of the greatest interest to us, that the Religious Orders may flourish among you; for, commended by their virtue, perfection, and varied and fruitful labor in the cultivation of souls, they are a source of strength to the Church, and the civil community is likewise indebted to them for the best assistance at all times. In particular, considering Gaiicia, we remember with great zeal the ancient Basilian Order, in which We have already, in times past, established special plans and provisions for its restoration. Indeed, we have already reaped considerable fruit from this, for that religion, pleasing to Our expectations, strives with full vigor to attain the glory of former times, having been a source of salvation to the Church of Ruthenia in many ways; and the signs of this very salvation, through the vigilance of bishops and the industry of caretakers, shine forth more and more brilliantly each day. — Now, since mention has been made of Ruthenia, let us offer this exhortation: that you, although differences in origin and rites may exist among you, may unite your wills and affections more closely, as befits those who are united by region, by citizenship, and above all, by the communion of faith. Just as the Church embraces her children and allows them their legitimate customs and rites, according to wise counsel, so may you, under the guidance of the clergy, do likewise.

[*Latin ed. p. 532*]

532 ENCYCLICAL LETTER: Brothers, may your hearts and souls be united, working together so that the glory of the one God and Lord may be amplified, and that all the fruits of justice may be multiplied in the flourishing of peace. We likewise turn our prayers with a willing heart towards you, who dwell in the province of Gnesen and Posen. Indeed, it is pleasing to remember how, from among your own citizens, we have drawn men of outstanding piety, prudence, and charity, who have striven for the glory of the illustrious Saint Adalbert. It is, however, even more pleasing to see your obedience, your love for the mild and diligent governance, and your steadfast unity; and we hope that the state of the Catholic religion among you will daily become more joyful through good progress. This hope, the more it is affirmed and fully realized, is not without reason; we command you to trust in the magnanimous equity of the Most Serene Emperor; whose moreover, favorable and benevolent intentions towards you, we have not infrequently observed, and who, certainly, will continue to favor you, as long as you persevere in reverence for the laws, and in all righteous deeds, to the Christian praise of God. These things, Venerable Brothers, we wish to be announced and imparted to your respective congregations, so that your own works may also be more fruitful. Let your most beloved children recognize how great is the affection of charity with which we are moved; and let them, as is most pleasing to Us, receive these things with equal observance and piety. Indeed, if they diligently and

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constantly strive for what we offer, they will surely be able to ward off the dangers of the times with faith, to preserve the memorable glories of the past, and to draw from them, even to this day, the best consolations and benefits of life. Secondly, with the help of the divine assistance, through the prayers offered to the most glorious Virgin Mary, to the most holy Joseph, whom the Christian people joyfully celebrate today, and to the holy patrons of Poland, we implore you to pray fervently for us. As a pledge of our most sincere good will, we impart to you and to the entire clergy and people, entrusted to your care, the Apostolic blessing, through our loving concern in the Lord. Given at Rome, near St. Peter, on the nineteenth day of March, in the year 1894, in the seventeenth year of Our Pontificate. LEO XIII, POPE.

[*Latin ed. p. 533*]

533 FROM THE SACRED CONGREGATION OF THE ROMAN COUNCIL AND OTHERS. February 24, 1894. Through Summary Petitions. After the decree *Vigilanti* (1) was issued to restrain the abuse of selling indulgences publicly, and at the request of the Most Reverend Prefect of the Sacred Congregation for the Propagation of the Faith, it was extended also to the Eastern Church. Immediately, numerous petitions were presented from various parts, some seeking dispensations contrary to the provisions of the law, while others sought clarification on certain doubts regarding the application of the law. Furthermore, with regard to dispensations, after the publication of the decree, this rule was observed: namely, any request for future business transactions or the publication of indulgences through Masses was generally suspended; and only those transactions or associations that had already been initiated in good faith for a year or a semester were permitted to continue, with the necessary precautions taken to avoid any abuse. Now, a judgment must be rendered on these petitions regarding their merits: it must be considered whether and how they can be satisfied. Regarding the principal doubts raised, two instances are presented: one from the Bishop of Premisli, and the other from the Bishop of Conversano, which are therefore transcribed in their entirety. First, the Prelate of Premisli writes: "The decree of the Sacred Congregation of the Council, given in ROMA on May 25, 1893, by which abuses relating to the celebration of Masses are condemned and punished with severe penalties, recently communicated there by the Most Illustrious Archbishop of Leopolis of the Latin rite, is prepared to be published in his diocese. SUMMARY OF THE MATTER. (1) Reported on page 56 of this volume."

[*Latin ed. p. 534*]

534 ROME AND OTHERS: "But since in the aforementioned decree, no mention is made of the responses of the Holy Penitentiary [Apostolic Penitentiary] of October 6, 1802, nor of that of the same Holy Congregation of

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Councils of April 24, 1875, by which ecclesiastical authorities are permitted to use the proceeds of Masses for the publication of good books or religious periodicals; and since, on the contrary, in the same decree it is stated, 'with all previous indulgences and privileges granted up to this point being revoked by this present decree, in whatever way they may be contrary to it'; therefore, the undersigned advocate, with the utmost humility, before publishing the decree, earnestly requests information as to whether the aforementioned responses should be considered revoked by the most recent decree. Furthermore, the advocate asks: 'Do ecclesiastical officials act illicitly, who, although not receiving the proceeds of Masses directly from the faithful, but who request or accept alms offered spontaneously by others, by priests or bishops from abroad, for example, from France or from the Russian Empire, and then offer these alms to other priests to be celebrated as Masses, giving them in lieu of the stipend, good books published by themselves or religious periodicals of equal value?' 'Also, do ecclesiastical officials, who, wishing to build a new church or to restore an old one, and lacking sufficient funds, obtain from bishops or monasteries or from benefices a larger number of Mass stipends, and then request other priests to celebrate a certain number of such Masses, free of charge, at the appropriate time, retaining the proceeds of those Masses for the construction of the church?' These are the questions posed by the Prelate of Premysl. The Bishop of Conversano, however, requested the following to be defined: 'I. Notwithstanding the aforementioned General Decree of May 25, 1893, can the rule traced by this very Holy Congregation on April 24, 1875, be followed, which is as follows?' 'Are and in what way are those who manage or administer religious periodicals to be condemned, who entrust to priests the celebration of Masses, retaining from their alms a price corresponding to the value of the Masses?' — Answer: Negatively, provided that nothing...'

[*Latin ed. p. 535*]

ROMANA and other places: 535. Let the founder or benefactor's will regarding the amount of the stipend, the place, and the time of celebration of the Masses be observed, excluding any studious collection of Masses, and let the priest, to whom the Mass is lawfully assigned, be informed of this, saying the words "Fiat verbum cum Sanctissimo." "If the answer is affirmative, the clause excluding any studious collection of Masses can be interpreted, as is customary to this day, to mean that invitations printed and other inappropriate methods are prohibited." This humble petition from the Bishop of Conversano was presented in the month of July; and shortly after, in the month of September, in the "Ecclesiastical Monitor," which is published under the auspices of the same Bishop of Conversano, a commentary on the Decree Vigilanti is given, which is very useful to booksellers, publishers, and directors of newspapers, and provides an op-

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portunity for new questions. Given these circumstances, the entire matter, both regarding requests for dispensations and regarding doubts, was subjected to the wise judgment of the Most Eminent and Reverend Fathers, after a careful prior opinion from one of the consultors. A Synopsis of the Discussion. It has been developed, with no small amount of concern, what has been related regarding the commerce of Masses in the preceding exposition, and more clearly and manifestly in the last passage written by the Most Reverend Secretary. From both, it is clear how wisely this Holy Congregation has renewed the Decree of Pope Pius IX, adding penalties to be inflicted on those who transgress, so that, at long last, the truly regrettable inconvenience may be dispelled and completely removed. The commerce of Masses must no longer be concealed. And if, even today, it attempts to be introduced under the guise of honesty, necessity, and religion, or is simply insinuated, it is necessary not to relax the reins, nor to weaken in any way the force of the already extensive decree, but rather to preserve it intact, lest the lamented inconveniences be renewed. And if the OPINION OF THE CONSULTOR.

[*Latin ed. p. 536*]

536 To the city of ROMANA and others, an indulgence should be granted, because necessity, or true utility, compels it; it should be granted, but with such precautions, so that it never deviates from the decree... Therefore, two points must be brought back to the discussion, namely, whether the most recent decree, which they call a declaration, given by the Sacred Congregation of the Holy Office in the case of Tarbien and others (1) on April 24, 1875, concerning question VI, has been revoked; and what should be answered to those who earnestly request that they be allowed to use the ancient favor. I answer these two questions, the speculative and the practical. Regarding the first question, it is well known to the Most Reverend Fathers that the Sacred Congregation has always consistently held, and more so since the decree of the year 1874, that associations, and even more so the practice of commerce, through the offering of Masses, are absolutely forbidden, and for other reasons. It cannot be said that the response to question VI in the case of Tarbien in the following year, 1875, permitted this again. For in that case, it was not a matter of resolving a general, speculative doubt; but of responding to a petition from the two periodicals, Acta S. Sedis and Le Missioni Cattoliche. And it is also evident from this that, with regard to the privilege granted to these two periodicals, and that only under certain limitations, the Most Reverend Fathers added this clause after the responses to the various questions raised in that case: "Let all of the above be understood with the Most Holy [Father]." Some attempt to evade this argument, and resort to a sophism, preferring the appearance of truth, which, if seriously considered, has no strength, and is unsuitable for persuading. Article VI, they say, does not

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contain a privilege, nor an indulgence, but is simply a declaration in itself, as the words suggest. Thus, the Ecclesiastical Monitor, to which many adhere, accepts the conditions imposed, provided that nothing is taken away (1).

(1) You have the reference in Volume VIII, page 350. Also, see page 107 of the same volume.

[*Latin ed. p. 537*]

ROMANA and others 537: concerning the will of the founders or benefactors regarding the amount of the stipend, the place, and the time of celebration, excluding any (1) collection for Masses* and the learned person who, by law, follows the celebration of the Masses. I do not deny that the cited response has the appearance of a declaration, especially if the matter is not examined closely, nor if those things mentioned above are not considered. Furthermore, I would be asked by opponents: could the Congregation have responded negatively? I believe it could have, and they themselves certainly would not deny it. But why could it? I will say openly, because of the danger. Therefore, to avoid any inconveniences, the Holy Congregation included the conditions mentioned above in its response. I confirm this from the purpose of the decree, which is clearly gathered from its very preface. For these words are introduced: "to restrain the licentiousness of some who, through ephemerides, books, and (daily wages) more easily exchanged with the clergy, using the help of Masses, certain things were established, and approved by Pope Pius IX, of blessed memory, etc." Is that necessity for restraining licentiousness still present today? And the Holy Congregation, renewing the decree with added penalties, did not hesitate, fighting against uncertainty. If the newly promulgated decree, and one strengthened with new force, did not err, those who assert that there were no lacking ingenious minds, who found evasions and tergiversations, to circumvent the decree, would be mistaken. Indeed, not a few circumvented it, and this is clearly evident from the letters and information provided. But those who were not registered among the merchants, and who were using the benevolent concession, were they lamented victims? I believe that more, being prudent, honest, and very religious, kept the conditions noted in Article VI hidden. May it be far from me to want to say that all were guilty of such a crime. But were they all observed? – I mean, could they all be observed? I pass over the time and place of celebration, since it is impossible for the purchasers of the ephemeris to reside in that place where these [Masses] are celebrated.

(1) Note the words "excluding any collection for Masses." Thus, it is indeed written in the acts of the Holy Congregation. Therefore, those who write in the published response "excluding any carefully considered collection for Masses" are mistaken. The word "carefully considered" is an

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interpolation.

[*Latin ed. p. 538*]

538 Of ROMA and other places: And concerning the necessity of a privilege, by which the power to celebrate Mass in another place is granted. Likewise, concerning time, it will be very difficult to observe the norm, which is handed down by theologians. The last condition, by which any collection of Masses is said to be excluded, how it can be observed by the editors of periodicals, I confess I do not know. What that word "collection" means, is easily understood. What do the editors of periodicals seek? To collect as many alms as are necessary, so that there will be enough for both old and new subscribers to the periodical. Indeed, in what way will the inconvenience of collecting a large number of Masses not arise, so that there will be enough for those who request them? But this collection is prohibited by Benedict XIV, in his Constitution which begins "Quanta cura." This collection introduces another inconvenience, of which I have already spoken, namely, that it does not sufficiently fulfill the obligation within a short time. Finally, I confirm the matter itself from the middle, or rather, from the reason which is inserted in the decree Vigilanti, so that they may have an end, and no longer be mentioned, the evils which arise from the collection of Masses. Note these words: "Since experience has shown that the evils which are deplored arise most of all from that which is in the hands of some private individuals, where a greater number of Masses are collected than just necessity requires, therefore the same Most Holy Fathers, under a precept of grave obedience, decree and command that in the future, all and each beneficiaries and administrators of pious causes, or in any way obligated to fulfill the needs of Masses, whether ecclesiastics or laymen, at the end of each year, shall deliver what remains to the Ordinary." If these words mean anything, they not only prohibit a diligent collection, but any and every collection, whatever and however it may be made. I am surprised that the commentators on the decree Vigilanti, with this clause so clearly stated, have in no way attended to it, and have omitted it, as if it did not concern them. Nevertheless, it could not be passed over. For it could shed light on their inquiries. I have not omitted these things, which seem to be more justly rigorous, because those who interpret the decree Vigilanti do so according to...

[*Latin ed. p. 539*]

ROME and other places, 539, already proclaimed in their publications, that nothing has changed, and that everything proceeds as before the decree, as if this were established for the benefit [solatium] of others, and not to impose an obligation. Does this decree prevent the diligent collection [studiosam collectionem] that is prohibited? Regarding the second question, namely, what should be answered to those who request indul-

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gences already granted, I preface this with the statement that the Church has exercised every diligence, which Benedict XIV rightly calls incredible, to effectively prevent anything that could relate to the matter in question, whatever appearance of negotiation it may have. For this purpose, she is accustomed to issue salutary decrees, and in particular cases, she has made her mind clear, and has removed whatever she has judged unworthy of such a sacrifice. The dignity and excellence of the sacrifice must be considered, and the shadow of scandal must be removed from the Christian people, to whom it is offensive to hear that alms offered to priests are exchanged for goods, and that the celebration of Masses is entrusted to laymen. Furthermore, more is said about our avarice, and decrees have been promulgated concerning the alms for Masses, which are easily and without scruple dissipated; therefore, it is necessary for the Holy Congregation to show kindness and good will, and to make them credible. This would happen if the lamented inconveniences were concealed, and if the way, or even the tunnel, that offers them an opportunity, were neglected. This statement will not seem harsh, nor excessively rigorous; if it were judged so, the Church would be accused of harshness and excessive rigor, which has never ceased to urge and inculcate the diligent and careful celebration of Masses through the Roman Pontiffs. But if, despite so many pontifical Constitutions, the inconveniences have not ceased, what will happen if the very Congregation were to appear lenient and more accommodating? If article VI, which was certainly tolerable and protected by conditions, was nevertheless, in practice, an opportunity for the aforementioned and repeatedly lamented abuses, what if the Holy Congregation were to hesitate, and what if...

[*Latin ed. p. 540*]

540 Was it the case that ROMA and other places either sanctioned abuses through their own authority, or, by acting leniently, preserved the source of these abuses? The inconveniences are already widespread and demand an effective and timely remedy. To act leniently, and to exercise indulgence, is not beneficial today. The reports submitted by prelates to this Congregation before the *Decretum Vigilanti* were read with the utmost care and examined thoroughly, and all acknowledged the severity and rigor necessary to eliminate the abuses that occur in the celebration of the Masses. And rightly so. Grave evils are not cured by leniency, but by laws that are appropriate and well-suited. If anyone were to object, I would reply that if the law is severe and burdensome, you yourself have prepared the way for abuses. Nevertheless, the law must always be observed. Some have looked forward, and from whom, and about what. And indeed, if those who implore the indulgence of the Congregation are truly Catholics, as they constantly profess, and pursue the Church not with deceit but with faithful love, then they should, above all, demonstrate their obedience to

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the decrees of the Holy Congregation through their example and actions. Certainly, they would suffer a considerable loss if the indulgence were denied. However, they should not be burdened with this, when they have repeatedly declared that they desire to promote the well-being and good of the Church, and to defend its rights, setting aside their own personal advantage. Nevertheless, they speak in a different way today, and all repeat with one voice that, without the denied privilege of exchanging daily works with alms for the "celebration of Masses," they cannot wage war against the enemies of the Church, because, without this source, they will certainly perish. Almost all have sought letters of recommendation from their Ordinary in order to obtain the requested grace more easily. I believe that little attention should be paid to their complaints, and if it is permissible to frankly express what I think, I would reply that it is necessary to obey the decrees, abandoning all hope of obtaining a shadow of dispensation and privilege. If they are of the seed of those men for whom salvation in Israel was accomplished through horses, then let them not insist, and let them speak of victory. But the reverence that I owe to those whom the Holy Spirit has placed to govern the Church of God suggests that a different response is necessary. They themselves, in the letters they sent concerning the daily works,

[*Latin ed. p. 541*]

For the preservation of the [Roman] and other [institutions], and they implore indulgence. Therefore, severity must be tempered, with due diligence, and, as far as possible, the inconveniences lamented should be removed, provided that the following conditions are met. The following conditions could be imposed. Provided that the conditions already established regarding the amount of the stipend, the place, and the time of celebration of the Masses remain firm:

1. Those who exchange books for alms for Masses, and who promise to give whatever remains to pious causes, or to pious places, or to seminaries, should be excluded from any privilege that might be granted. I consider all such individuals to be usurers, engaged in an dishonest pursuit, in order to distribute alms to the poor.

2. Those who, up to this point, have exchanged books for alms for Masses under the pretext of promoting knowledge and assisting priests in poverty should be excluded. The Church does not need defenders of this kind, and Catholic knowledge will not lack support from private sources.

3. Only daily [publications] and ephemerides [religious pamphlets] should be included, provided that their authors have obtained letters of recommendation from the Bishop, and, as long as they hold their position from the Holy See, they will also obtain it from the Ordinary, and will render obedience, reverence, and obedience to him.

4. However, not all daily [publications], even those recommended by

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the Bishop, will receive a benefit, but only those that, by reason of their timeliness, doctrine, and distribution, deserve it.

5. No privilege should be granted indefinitely, but it should be limited to a certain period, for example, for three years and no more. The need to request a privilege does not constitute a right. I say three years, because it seems more appropriate to me, when dealing with a grace to which necessity itself impels the granting.

6. If it is necessary to mention the privilege obtained in the [publication] to be made, otherwise it would be lacking, and would not be of any benefit, then it should be done, but those interested should be referred to a priest designated by the Ordinary, who will himself receive the alms for Masses, provide satisfaction, and administer them annually.

[*Latin ed. p. 542*]

542 The matter concerning ROMA and other places falls under the jurisdiction of the Ordinary, who shall subsequently inform this Holy Congregation. Since the Ordinaries have not hesitated to send their letters of recommendation, they ought likewise to diligently examine each year whether all things proceed correctly, and to inform this Holy Congregation, to which the diocesan records are entrusted. These things, which I have written due to the limitations of my understanding, and that in a matter so important, I submit with a willing heart to the wisdom and prudence of your Eminences. In the meantime, I humbly kiss the Holy Ring. Having stated these things, the question was raised as to how doubts and requests should be handled. RESOLUTION. The Sacred Congregation of the Council, after deliberation on the 24th of February, 1894, decided to respond: To the proposals presented by the Bishop of Premislien, provision will be made in particular cases. — To the doubts of the Bishop of Conversano, nothing is to be answered. — Regarding the remaining requests: PINNEN. GRANT OF JUBILEE. On the 10th of December, 1893. SUMMARY OF THE CASE. The priest Petrus Leopardi, archdeacon of the cathedral church of Pinnensis, reports in a humble letter: that, due to his advanced age, and also due to the long and arduous labors he has undergone, favored by the diocese, he requires rest; therefore, he implores your Holiness to grant him the privilege of being excused from the choir. These suppliant letters were sent to the Bishop of Pinnensis for information and a vote, so that, after hearing the Chapter and examining the records of errors, he might report on the continuous and commendable service rendered by the aforementioned person to the choir over forty years, and on the number of canons who actively serve in the choir.

[*Latin ed. p. 543*]

PINNEN. 543, and concerning the detriment that will result from the requested concession to said choir. In a meeting on October 4th of the current

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year, it was decided to respond to the threefold request in the following manner: "Firstly, the choral service requested by the petitioner, after deducting allowances, amounts to 28 years, 8 months, and 8 days. Secondly, concerning the canons who actually serve, there are currently five who are assigned to the section to which the petitioner belongs. Thirdly, no detriment will result to the choral service from the requested concession, due to the petitioner's frail health and advanced age." On his part, Canon Leopardi considered it appropriate to write the following to the Most Reverend Prelate: "The excessive allowances must be reimbursed, because they were not deducted during the two years spent in Neapoli to obtain the degree in Theology, with prior apostolic dispensation and letters of dismissal from the Bishop. Since four reasons are enumerated in Chapter I, Session 23 of the Council of Trent, under which a cleric may be excused from residence, namely Christian charity, urgent necessity, due obedience, and evident benefit to the Church or the Republic, the Doctors commonly teach that the last reason should also be invoked, as a species of a higher order, namely the reason of studies, Reiffenstuel, *ib.*, vol. 7, title 4. Since anyone who was granted conciliar vacations enjoyed choral service daily from the year 1848 to the year 1860, the canons, according to the permission of the Council of Trent, lose three months of vacation each year... the time of this absence, as it is permitted by law, is generally not deducted, as is clearly stated in the document concerning the cause of Praenestina, July 17, 1808. Due to the allowances with which he was unduly burdened, when he performed the office of judge in the cause of beatification of the Venerable Nuntius Sulpritii. The allowances to be reimbursed from the year 1860 to the year 1892."

[*Latin ed. p. 544*]

544. It is not due to a bad will, but because I have fulfilled the office of vicar general for two bishops. If the Sacred Congregation were to deny the grant of leave, I would request leave of absence from the choir due to infirmity, without the loss of my distributions. The Bishop confirms these observations in his letters to the Sacred Congregation, and bears the highest testimony regarding the choirmaster, stating that his choral service can be considered continuous, because he has never been absent for the sake of recreation, but has always fulfilled the duties of vicar general for this vast diocese. *Disceptatio Synoptica.* THE GRANT OF LEAVE SEEMS TO BE DENIABLE. All know that the sacred canons are silent regarding the grant of leave. Nevertheless, out of the kindness of the Church, an argument can be drawn from the law, namely, that those who, by reason of their offices, are burdened, and who have for a long time enjoyed the right to rest and to enjoy the fruits of their merits, may be allowed to rest, provided they have diligently and laudably fulfilled choral service for a period of forty years. (Garcias de Beneficiis, part 3, chapter 2, paragraph 131; Benedict

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XIV, De Synodo Diocesana, book 13, chapter 11, number 13, etc.; Sacred Congregation of Rites, in Ravenna, January 31, 1824, etc.). These conditions are usually strictly observed, and it has been the constant practice of the Holy Order not to grant the grant of leave unless it is fully demonstrated that the person has provided laudable and continuous service for forty years. Although the matter of the grant of leave is, in some respect, favorable, inasmuch as it is a most excellent reward for labor and service to be given, and tends to the benefit of the Church itself (Gerundus, *Iubil.* Feb. 1772, § *Ad primam*), yet, in another respect, it is also odious, because by it, the service of the Church is diminished; hence it has happened that, in the case of continuous and complete lack of service, not only has the grant been denied, but the grant already conceded has been revoked by the Holy See, as is noted in the Piacentine regulations, July 28, 1787; in the Constantinopolitan doubts, May 1, 1737. These grants are not given out of justice, but out of grace and clem-

[*Latin ed. p. 545*]

545. It is stated, as is transmitted in the *Fest.* 11, Aug. 1721, etc., that certain exemptions are granted; therefore, the required conditions appear to be fully and conclusively satisfied. Regarding the procedures of this doctrine, it would seem that the requested indulgence should be denied to the Archdeacon Leopardi, given the very large number of absences. Furthermore, it must be noted that the time during which the Orator was absent due to studies should never be counted towards the fulfillment of his obligations, even if he were granted an indulgence by the Holy See, as the aforementioned article states. The Sacred Congregation, in its decree of 17 December 1718, addressed to the aforementioned, ruled in this manner. Another, and greater, obstacle arises in this matter, considering the length of time during which the aforementioned Canon was absent from the choir while serving as the General Vicar; for the Sacred Congregation, in its decree of 18 December 1727, declared that daily duties are not owed by a Canon serving the Bishop in the office of Vicar, even during those hours in which, due to the nature of the vicariate, he does not participate in the choir.

THE INDULGENCE FOR JUBILEE SEEMS TO BE GRANTABLE.

On the other hand, it is apparent that, in the calculation of absences from 2 June 1848 to 30 June 1860, the time of the quarterly vacations granted from the Council of Trent was also included; and that, furthermore, perhaps many of the absences were compensated for by the service that the Orator himself provided from 2 June 1848, when he completed his fortieth year, until the present day. Indeed, the Sacred Congregation has, on several occasions, allowed for the extension of service beyond forty years in order to

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compensate for omitted or interrupted service within the forty-year period, as is seen in *Signina*, 4 February and 11 March 1786; and in *Piacentina*, 18 March 1809. Furthermore, it seems that a distinction is established in law regarding the granting of an indulgence for jubilee: if someone has not been able to fulfill his service due to a necessary cause for the Church and the choir, he should nevertheless receive the jubilee; but if the absence was due to a voluntary cause, then the absences must be compensated for by extending his service. Regarding this matter, the Sacred Congregation, in its decree addressed to the aforementioned, 17 December 1718, *Acta*, Vol. XXVI, section CCCIX, 35.

[*Latin ed. p. 546*]

546 PINNEN, and in Bologna, 22 November 1823. § It is permissible (see Sum. ib.). Furthermore, this matter appears to be favorably disposed of through the intervention of the Orator, since, as he will undoubtedly serve in the choir during the term of office of the Vicar General, as the words of the Most Reverend Prelate attest, the value of whose testimony is known to no one. Moreover, the time during which the Orator was absent from the choir in order to fulfill the office of judge in the process of the Beatification of Blessed Sulpitius should be considered as contributing to the fulfillment of the requirements for jubilation, since, according to the Decree of the Sacred Roman Congregation, dated 27 February 1887, it is established: "that those canons who are present in the processes, whether ordinary or apostolic, are to be considered as present in the choir, even if they are performing other duties; and therefore, they are to receive all emoluments, even if they are engaged in other activities." Considering all of these matters, it is for the Most Reverend Fathers to judge whether the presented petition merits consideration; and if they judge that the Orator still requires further service for the granting of the jubilation, they should consider whether he at least deserves a special dispensation from the choir due to infirmity of health. It is not uncommon for, when the grace of jubilation is denied, a dispensation from the choir has been granted by the Sacred Order, as was the case in Fermo, on 13 September 1862. In light of these considerations, the question was raised as to how to respond to the petition. RESOLUTION. The Sacred Congregation of Rites, after deliberation on 16 December 1893, decided to respond: To the Bishop, with the following stipulations: If, through additional service beyond the fortieth year, and with the deduction of the years due by law, it is established that the Orator has rendered continuous and laudable service for forty years, then the jubilation may be granted; otherwise, a dispensation from the choir may be granted due to infirmity.

[*Latin ed. p. 547*]

547 CAMBRY. MATTER OF A MARRIAGE INDULGENCE. January 20,

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1894. Session 24. Case 1 Regarding Matrimonial Matters. SUMMARY OF THE CASE. Margaret Tabary, a young woman of exceptional piety and remarkable intelligence, on April 15, 1884, entered into a marriage without love, as is said, with Alphonse Laleu, a man over thirty years of age, a depraved individual and a contemptuous of religion. The marriage was celebrated before the parish priest and witnesses, observing in all respects the form prescribed by the Holy Council of Trent, in the cathedral church of Cambray; but under an ill-omened star. For Alphonse, from the very first days of their cohabitation, began to harass his wife in the most obscene ways with obscene words, and indulged in adulterous relationships. Consequently, aversion, contempt, and hatred filled the marital bed, especially on the part of the woman; and the wife's aversion grew to such an extent that, after 27 months, she separated from her husband and returned to her father's house, and, as is alleged, was never able to fulfill her conjugal duties. This occurred in July of the year 1886. The husband demanded that the wife return and resume conjugal relations. However, Margaret, persevering in her refusal, went to the civil court, and, alleging that his wife had deserted the marital home and refused to consummate the marriage, he requested a divorce, which he easily obtained. Approximately seven years after the separation, in the year 1892, Most Reverend Margaret petitioned that he would deign to grant her a dispensation concerning the valid but unconsummated marriage. SYNOPTIC DISCUSSION. DEFENSE OF THE WOMAN. He who undertook the defense of the actress, after presenting the narrative of the facts, divided his argument into three parts.

[*Latin ed. p. 548*]

548. The advocate proceeds, addressing the first point concerning the lack of consummation of the marriage, the reasons for granting a dispensation in the second, and the objections raised in the third. Beginning with the first point, he argues that there is a sufficient abundance of evidence on this matter to leave no doubt whatsoever regarding the lack of consummation of the marriage. Firstly, Margaret, under oath in the judicial examination, affirmed without hesitation that the marriage had never been consummated; and at a time when no action was being taken to dissolve the marriage, she had stated this to Eugenia Julien. The advocate argues that this confession should be given great weight, as it is a well-established principle of law that an oath taken in court creates a presumption of truth, such that it is to be considered true unless there is reasonable doubt about the honesty of the person taking the oath. Furthermore, Margaret's parish priest, and Henry Lecocq, praise the honesty and integrity of the plaintiff, Margaret, and other witnesses, who were called to testify, corroborate this. Indeed, the advocate argues, it would be sufficient to present these testimonies, the "seventh witness," to demonstrate that the judge can properly determine the level of credibility to be given to the testimonies of the

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spouses seeking the dissolution of the marriage, and that the judgment can be rendered with a clear conscience; but in order to remove all doubt, he presents further testimonies from witnesses produced by the defender himself. Moreover, the advocate continues, even those witnesses who are closely related to Alphonse were unable to raise any doubts about Margaret's veracity, but rather abstained from giving judgment, stating that they did not know her well enough. From all of this, it must be said that Margaret's confession regarding the lack of consummation of the marriage is so clear and evident a demonstration of truth that it deserves to be accepted as true. Firstly, Margaret's guardian observed that it was certainly and thoroughly established that Margaret had no intention of deceiving anyone. If she had, her lie would have been...

[*Latin ed. p. 549*]

CHAMBER. 549 ● It was established; for there was an intimate conversation between her and the man, which, by its very nature, has no witnesses; nor had any argument been presented to invalidate her assertions. Only those things which Alphonsus, through his advocate, had admitted before a lay judge, and which Margaret's advocate vehemently denied, were objected to. Although, therefore, some contradiction appeared in Margaret's account, this should rather be attributed to simplicity and the disturbance of her mind, than to malice, and certainly does not diminish the due credence to be given to her words. But if Margaret's responses are carefully and properly interpreted, it will clearly appear, the advocate asserts, that not even a shadow of conjugal relations is present in them. Indeed, Margaret affirmed that she had never used the same room with her husband, but she never affirmed that her room was so far away or so separated from the husband's room that he could not enter it, either day or night; nor that Alphonsus had forbidden her to enter his room of her own accord; therefore, questioned again, she added what she had omitted in her previous account, but which is by no means contradictory to it. Although her room was next to her husband's room; although, very rarely, twice in two years, her husband had entered it at night, and had lain with his wife in the same bed for three hours, nevertheless, it was true that Margaret had not shared a room with her husband. And those things, the defender continues, which are read in Margaret's previous account concerning her conversation with her husband, are neither false, nor do they contradict those things which, again called, she recounted before the judge. Kisses and embraces, with which Alphonsus and Margaret sometimes indulged, whether between betrothed or between a brother and sister for the sake of affection, are entirely permissible. However, the physical contact which occurred twice in two years, and which is certainly forbidden between a brother and sister, did not alter the nature of their relationship; therefore, Margaret could safely affirm with a clear conscience that she had been accustomed to converse

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with Alphonsus in a manner almost fraternal.

[*Latin ed. p. 550*]

500. The third point of contention, which the defender of the marriage asserted that the witness from the island had found in Margaret's responses, was this: for Margaret had stated, "He made requests, but not as urgent as he had claimed"; these statements, he argued, were clearly contrary to what she had previously asserted: "There were simple allusions, quite delicate"; and from these very responses of Margaret, the orator maintained, the truth was revealed. For the judge had questioned Margaret: "Please tell us in detail what happened next at the wedding celebration, from the point of view that concerns us." And she replied, "In the early days, for about a month, Mr. Laleu asked me nothing. He knew of my aversion; instead of seeking to draw closer, he distanced himself." Then, the defender of the marriage, acting in his official capacity, inquired whether the man had sought to entice her to marriage; and Margaret gave the response: "No, but there were simple allusions, quite delicate, suggesting that we would one day have to abandon this reserve." But this response, it must be understood, refers to the very early days of the marital relationship, about which Margaret was speaking; for there is no other indication that she felt anything. Therefore, the entire truth is contained in these words with which Margaret, shortly thereafter, cleared herself of all suspicion of falsehood: "During the first month, there were only allusions; after the first month, there were requests and incidents, quite violent, even very violent." Furthermore, the defender argued, it cannot be objected that Margaret's good faith can at least be questioned, because certain things were omitted from her initial account that she should have expressed. It must be considered the innate timidity of her sex, Margaret's agitation as she recalled the unfortunate memory of the passing of time, which her soul abhorred, and the wounds that were barely healed, were reopened. Moreover, the defender observed that Margaret's confession was wonderfully confirmed by the confession of Alphonsus, made before a lay judge through his attorney, which reads as follows: "He had encountered a resolution established in Madame Laleu not to..."

[*Latin ed. p. 551*]

"The marriage of Madame Laien was not consummated; her husband had declared to her that he did not wish to have children, and this desire remained unchanged." The advocate argues that the extrajudicial confession made by Alphonsus, before his adversary, has probative force, citing the law found in *De probat.*, cap. 10, title 1, book 2 of the Decrees. He further argues that the probative force of this confession is not diminished because Alphonsus made the confession not directly, but through his procurator, since a confession made by a procurator is harmful to his client, whether

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it is done by a special mandate or, as in this case, through the means of contentious jurisdiction. This is supported by C. 1, De post. praelatorum, I. I, title V of the Decrees; c. Dilectus, De ea pellis mon., book III, title XXXVII; Reiffenstuel, book II, title XVIII, § 4, no. 90; and Schmalzgrueber, *Ius eccl. universum*, p. III, title VIII, chapter III, § 2. Finally, it cannot be objected that the confession, elicited in the name of Alphonsus, was not made in the presence of Margaret herself; for Reiffenstuel responds: "One is considered to be present not only when one personally attends the confession of another, but also when one's messenger or agent is present" (loc. cit.); and *a fortiori*, when a true procurator is present, who, having a mandate, legitimately acts in the place of his client. Furthermore, the advocate notes that Alphonsus confirmed his confession before an ecclesiastical judge, when he delivered a copy of the divorce decree to the judge, certainly with the intention that due consideration should be given to those things which he had affirmed before the lay judge in the ecclesiastical decree. Moreover, it is clear from the document that Alphonsus readily agreed to his wife's petition for the dissolution of the marriage, and presented it to the judge along with the divorce decree; for Alphonsus, who "had become aware of the canon laws," to request the dissolution of the marriage was, in effect, to acknowledge that it had not yet been consummated. Finally, if anyone were to object to Alphonsus's confession, based on the document, that...

[*Latin ed. p. 552*]

552. In the chamber, after the evidence had been presented, the accuser wished to suggest that the suspect was lying, because he now saw that Alphonsus himself seemed to be seeking the dissolution of his marriage from the Supreme Pontiff; the defender replied, "Indeed, Alphonsus himself had affirmed the same thing, at a time when there was no suspicion, when the conjugal bond had not yet been broken." Furthermore, Theophilus Tabary, Margaret's father, a man of integrity in his public life, whom no one would dare to accuse of lying or perjury, testified: that Alphonsus had written to him, stating that the marriage had not been consummated. Moreover, the defender continued, the examination of Margaret's body perfectly corroborated the couple's testimony. He noted that all the canonical prescriptions had been strictly observed, and that the midwives, with one voice, proclaimed Margaret to be chaste. But, the defender argued, it is no secret that the mere presence of the hymen gives a strong presumption of virginity, even to those who believe that the greatest caution should be exercised when judging of virginity in court. Thus, Severinus Pinaeus writes: "When the virginal flower (namely, the hymen) is intact, it provides a unique and most certain sign of virginity"; to which Devergie adds in *Medicinae Leges*, cap. III, question 7; Casper, *Tractatus de Medica Jurisprudentia*, cap. 11, paragraph 1; and Maschka

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in *Medicinae Leges*, vol. III, whose assertions are not quoted here for the sake of brevity. But this presumption gains the force of full proof, if, in addition to the presence of the hymen, all those other signs that authors indicate as evidence of virginity are present. These signs, the midwives testified, had been observed by them, having been properly instructed in the art of medicine. And if all these arguments were to be rejected, because it is said that they have occurred in very rare cases, and that the midwives or medical experts in their testimony have been far from the truth, then the words of Coscu should be recalled: "We have no infallible proofs in the natural world, not even public documents, since they can be false, and even witnesses can be mistaken. But those proofs which are considered legitimate in law must be accepted as true in judgment," *De Sepulchri*, book 1, chapter 2.

[*Latin ed. p. 553*]

CHAMBER. 553. However, the defender of the marriage argues that it is futile for the opposing party to attempt to undermine the force of this argument by alleging certain witnesses who claimed that Alphonsus and Margaret had, at one time, engaged in conjugal relations. Indeed, if they have honestly admitted to having had physical contact with each other, even as spouses; but it is by far removed from the fact that a marriage had been consummated. This is what Margaret herself swore: this is what Alphonsus affirmed not once, but repeatedly: this was confirmed by the examination of the body: and this is what the very witnesses, whose testimony the defender of the marriage relies upon, openly asserted. No judgment of the marriage court can support the opinion that a marriage, even if imperfectly consummated, should be considered as fully consummated. For a marriage can only truly be said to be consummated when there is a perfect union, with the emission of male seed into the womb of the woman. Finally, the defender observes that a very serious presumption of consummation is falsely alleged to have arisen from the conversation of the spouses, who were full of the vigor of youth. For, in order for this presumption to have force, the sacred canons require that the spouses have slept together in the marital bed for three nights. But in our case, Margaret slept with Alphonsus for only two nights, and not even for complete nights, but for only three hours. However, in such matters, a strict interpretation must be applied. But, even if the spouses had slept together for three nights, this presumption would be completely refuted by contrary evidence. As Ilota states, whom Coscius cites: "This presumption is removed by contrary proof resulting from a confession made by the man before God, and upon his urging, he confessed that the marriage had not been consummated. Although the presumption of consummation is violent, that is, of law and by law, it admits of proof to the contrary, even from the confession of the one who is confessing against himself," *de separ.*, loc. cit. If this presumption is excluded by the con-

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fession of one of the spouses, how much more so should it be excluded if the examination of the body is added, which demonstrated her chaste state, for this indeed provides a much stronger argument than the confession of either spouse.

[*Latin ed. p. 554*]

§54. CONCERNING MARRIAGES. Having thus presented the matter, the advocate confidently defends every point concerning the first part of his thesis, and therefore turns to the other part of the question; and he believes it necessary to state, according to the opinion of the most serious authors, that the mutual consent of the spouses is sufficient for the Supreme Pontiff to grant a dispensation. This is the most common opinion of Hostiensis: "Spouses can, with the authority of the Pontiff, absolve themselves from each other before the consummation of the marriage, just as is read in marriages to be celebrated in the future. And a reason can be given for this, because before the consummation of the marriage, with the consent of both parties, a contrary act can intervene;" in caii. IX from the public collection of writings on conjugal matters, concerning the word "census mutuum"; and many other writers of the best reputation confirm this. Gregory Loper, book V, title 10, page 1. De Luca, on matrimonial matters, book I, discussion 9, §§ 02, 63, etc. The advocate also notes that this is consistent with reason. Indeed, since marriage has the nature of a contract, that rule can be applied to it which the Roman jurist applied to contracts: "A thing is created by whatever causes, and is dissolved by the same causes"; since the contract is "the agreement of two parties," it is fitting that it should be dissolved by the mutual consent of the contracting parties. However, this rule cannot extend to the point of granting permission to spouses to divert from their conjugal consortium by mutual consent. For it is opposed by that supreme law which God gave to Adam from the very beginning of human society: "Wherefore a man shall leave father and mother, and shall cleave to his wife: and they shall be two in one flesh." Which has made marriage entirely indissoluble. Nevertheless, this rule must have the effect that, when the marriage has not been consummated, it is much easier for the mind of the Pontiff to be induced to grant a dissolution, when both spouses desire it (De Iustis, on dispensations from evil, book II, chapter IX, § 28; Sánchez, on the sacrament of marriage, book II, discussion XVI, §§). After these things, the advocate says that the first reason to be considered is the lightness of the consent. And indeed, the parents acted most imprudently in arranging these marriages. They knew that Alphonsus...

[*Latin ed. p. 555*]

In the chamber, she had been influenced by affections: he had indeed not denied this; but he asserted that he had already abstained from them; he promised that he would return to a virtuous life. Great faith was added

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to his words: nor was any delay considered necessary, in order to ascertain whether his assertion was true, and whether his purpose was firm. They knew that Alphonsus did not enjoy any esteem, and yet, the defender argues, this ingenuous girl was granted a chance, perhaps, because, being endowed with wealth, he was considered to place happiness in riches. Such imprudence of the parents was disapproved by all: the unhappy outcome of the marriage was foreseen by all. Nor did Margaret act with less levity in giving her consent, as the tutor of the actress showed, first through the sworn testimony of the woman herself; to which her parents and witnesses fully agreed. And this further opposition, the advocate added, arose from the difference in character and morals between Margaret and Alphonsus. Indeed, she, from a young age, either through domestic examples or through the teachings of the nuns of St. Bernard, to whose care her upbringing had been entrusted, had been imbued with a sincere piety, with a singular devotion to God. He, on the other hand, was so little devoted to religion, that he almost scorned it, and had, before Margaret's marriage, reluctantly allowed her to confess her sins to a priest twice a year. This girl, so outstanding in virtue and integrity of character, that even after the civil divorce, the envy of her detractors could not diminish her reputation in any way. He, on the other hand, was so tainted by corrupt morals, that he enjoyed absolutely no esteem. This girl was of a sweet disposition, although steadfast in her purpose; he was a man of nature, intolerant and given to anger. She was distinguished by her piety to her parents; he, while still living a bachelor's life, had struck his father and was forced to abandon his paternal home, as affirmed by Ludovicus Varé, the most familiar man of his father. Although it cannot be deduced from these words that Margaret did not fully consent to the marriage, no one will deny that she did, in fact, freely consent. For Margaret, upon being betrothed, had...

[*Latin ed. p. 556*]

556. The woman, Margaret, did not spontaneously desire marriage, but was induced to it by the persuasions and urgings of her parents. Therefore, Margaret fully consented to the marriage act, because she had yielded to the will of her parents, but she did not consent freely, because she did not act spontaneously; and, ignorant of how to resist her parents, she agreed at a time when any other person in her place would have refused. Therefore, since no contract is so strictly required to have the free consent of the contracting parties as marriage, and the mind of the sacred canons is that "no inducements whatever should be present," (cap. cura locum 14 De spovs. et mat.), the advocate concludes that there is a sufficient reason to move the mind of the Pontiff to grant a dispensation for the dissolution of the marriage in which one of the spouses rashly and without deliberation consented, and to this is added the extreme difference in character and disposition. The advocate places another cause for the dispensation in the

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discord and the insuperable aversion of Margaret towards her husband, which is abundantly proven by the testimonies of witnesses. Nor should credence be denied to the woman herself making these assertions, even though Alphonsus, in a document presented to the Ecclesiastical Judge, vehemently denied everything that Margaret had asserted. For the defender asks, if Margaret had falsely asserted something, why did Alphonsus not swear before God, as he would have done to protect his reputation, that he had been overwhelmed by calumnies? Therefore, Alphonsus' silence seems to confirm Margaret's assertions. Therefore, the advocate concludes, it is more fitting to believe Margaret, who has sworn that she has spoken the truth, and all the witnesses have declared themselves incapable of lying, than Alphonsus, who, while refusing to say the whole truth, unjustly denied what Margaret had sworn. Furthermore, the advocate continues, all doubt must be said to vanish if one considers the testimonies of the witnesses, who, among others, testified from their own knowledge that they had observed the sadness in Margaret's face, even while she was still living with her husband, indicating the gravity of the situation.

[*Latin ed. p. 557*]

In the chamber, her heart was filled with concern, and she quickly realized the consequences of his imprudence. She regained her former serenity, and at the same time, she departed from the man. It cannot be attributed to Margaret's fault that Alphonsus' life was filled with scandalous behavior, as he resisted the man who was urging her to consummate the marriage. For, scarcely a month after the beginning of their marriage, Margaret discovered, from Alphonsus' own confession, how shamefully he had broken his conjugal fidelity and violated the marriage bed. And then, when Alphonsus, in order to achieve what he could not obtain through admonitions or reproaches, resorted to violence, Margaret began to resist that violence. However, this cannot be attributed to Margaret's sin, since "he who breaks the bond, is not bound by it," Cap. 4, 5, 8 De div. tit. 19, lib. 4 Decr., and the innocent spouse can, in both forums, exercise their own authority to separate, when the adultery of the other is proven. Furthermore, the advocate asserts that it is impossible for the spouses to ever reconcile. Indeed, Margaret affirmed this, and Alphonsus acknowledged it, as he himself began to seek the dissolution of the marriage from the Supreme Pontiff, a fact that almost all witnesses confirm. These authors state that such an irreconcilable separation of minds provides a just cause for a dispensation. And in truth, this separation often leads to quarrels between spouses, animosity between their families, and very grave scandals. Caietanus, vol. 5, p. 28; Sánchez, De Sacr. matr., book 2, section 15; Corradus, in Prax., book 8, section 1, article 27; Ursaya, Discept., section 14, and many others, all of whom, as the advocate states, confirm this judgment by the practice of the Sacred Congregation. Finally, the last reason requested is based on the

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danger of incontinence in which the woman finds herself. The spiritual benefit sought by the petitioner for a dispensation, as a just cause to be retained, is taught by Coscius, De sep. a tit., chapter Id, book 1, section 259; Corradus, loc. cit., section 27; De Luca, De matr., book 4, section 9, etc. The advocate believes that this danger is undoubtedly present in this case, as affirmed by Margaret's mother, the Vicarius Capitularis of Cambracensis, the parish priest Lecocq, and Scalbert.

[*Latin ed. p. 558*]

558 CAMBRY. Furthermore, the defender strongly observes that the advocate for the annulment, concerned for the soul's peril, denies that Margaret, approximately seven years after separating from her husband, lived such an incorrupt life that she avoided even the suspicion of fault, and therefore could continue to live with the same integrity of conduct in the future. For it is possible to grant Margaret, restraining the movements of burning lust, to have remained chaste until now; for it would not necessarily follow that a day would never come when, weakened in spirit, virtue would fail. Finally, in the third part of his argument, the defender addresses certain difficulties raised by the advocate for the annulment. The advocate for the annulment asserted that granting the dissolution of the marriage would not be permissible, because it would be to the detriment of Margaret herself. For it could easily happen that Alphonsus, upon learning that Margaret had entered into new nuptials, would be seized by rage and attempt treachery or murder. But the tutor of the actress, he observes, Alphonsus himself had sought permission in a civil court for himself and his new wife to enter into a new marriage. He had declared before an ecclesiastical judge that he was yielding to his wife's desire for the dissolution of the marriage. Therefore, he was angered because he himself had made a vow. Furthermore, the defender argues, it is equally futile to object that the dissolution of the marriage would cause scandal, especially since it could be said that the dissolution was obtained because the parties were wealthy. For it would be ridiculous to reject Margaret's pleas because she was born in the Diocese of Cambray rather than in Paris. For all of France is governed by the same laws, and the entire nation is subject to the authority of the unjust law that introduced divorce; and if it ever happens that a small scandal is to be avoided, it certainly happens in the case in which the spouses, while living separately, most frequently find and seize opportunities for sin. Furthermore, the speaker, whether he be the Vicar Capitular of Cambray, or the parish priest of Cambray, or the parish priest of the city of Dun-

[*Latin ed. p. 559*]

In the chamber, No. 559, and in the church where Margaret now resides, those who were most certain declared that it was entirely to be condemned, and that the reason for this scandal must be understood.

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OBSERVATIONS OF THE DEFENDER OF THE SACRED BOND. The advocate for the Sacrament argued with all his strength that neither the inconsummation of the marriage, nor just causes for dispensation, were present. And, above all, he observed that, from the two years of cohabitation between Margaret and Alphonsus, from the fact that they were young people in the prime of their lives, suitable for marriage, and from the fact that the man had a beautiful wife, a presumption of the consummation of the marriage arose. He recalled what Pignatelli teaches in his work *Consult*, canon, in consult. 148, no. 21, vol. 1: "All these things must be proven with conclusive proofs; indeed, with abundant proofs, as in chapter 1 *De fri r/* and *malefic*. And especially with regard to the inconsummation (of marriage), since in this case, five months of cohabitation and sleeping together are presumed. From this, the presumption of the law and of the right arises that the consummation has taken place, according to Bald, in *J. Deo nobis*, no. 7 *De episc. et cleric.*, and the doctors note, and it is commonly stated in the aforementioned chapter." Furthermore, the Sacred Congregation, in Naples, on August 2, 1845, § Quin, states: "And indeed, the perfect structure of the body, about which we spoke above, the virile age, the youthful ardor with which the Oaietan [Alphonsus] attracted the young woman, the fact that they both slept together for two years, these circumstances give rise to the presumption of the law and of the right that the consummation has taken place." The advocate for the Sacrament did not accuse Margaret of having deliberately sought to infect the conjugal relationship, for while she was trying, she fought openly, both with herself and with the witnesses. Indeed, in the first examination, Margaret bravely affirmed: "We lived our lives as a brother and sister; we never used the same room; even on journeys." But in a later, more pressing examination, the judge asked Margaret if she maintained the same opinion. Margaret replied: "Indeed, we used two rooms, but the man reserved the right to come to me day and night." Furthermore, the woman said, "We lived as a brother and sister..."

[*Latin ed. p. 560*]

560. The advocate contends that, while the other party, having been led to make certain admissions, professed her innocence, they were together in the same bed on several occasions, for two or three hours at a time. Furthermore, the advocate argues that Margaret does not truly deny the consummation of the marriage, despite her claims to the contrary, because she brings forward, in her defense, both the actions of Alphonsus towards her, and her own actions towards Alphonsus, which suggest otherwise. When questioned by the advocate for the validity of the marriage as to whether she would persist in her contradictory assertion, Margaret boldly replied, "Indeed, according to my understanding; namely, 'during the first month, there were only allusions; after the first month, there were instances

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and incidents, quite violent, even very violent.'" The advocate asserts that the presumption of the consummation of the marriage, arising from the cohabitation of the spouses, gains even greater force because of the frivolous and insincere attempts made by Margaret to deny the consummation of the marriage. Indeed, if Margaret had not contradicted her own oath in court, she could have, with the utmost clarity, demonstrated the truth of the matter, had she not feared the truth. In addition, the testimony of the husband, who appeared before the judge, stated that he did not oppose the petition for the annulment of the marriage, filed by Margaret; but that, out of love for the truth, he could not approve of the reasons upon which the petition was based; for, having examined the sacred canons, he found nothing that supported their petition; and therefore, if grace were granted, it would be solely through the goodness of the Most Holy Father. However, according to the advocate for the validity of the marriage, this testimony outweighs the testimony of Margaret, first, because it is so decreed in chapter 1, section 1, that "evidence given by reason" is to be considered; second, because the husband is the head of the wife. Furthermore, because Alphonsus, in declaring that the marriage was consummated, does not gain any advantage, but rather incurs a disadvantage, since he himself consents to the dispensation regarding the marriage. Margaret, on the other hand, has demonstrated a clear benefit from her confession; and therefore, "Confession, because it is for the benefit of those who confess."

[*Latin ed. p. 561*]

CAMERACEN. 561 proves nothing. » Sánchez de matrim, book 2, chapter 45, paragraph 33. Furthermore, the well-worn adage "once a liar, always a liar" is detrimental to Margaret. However, the defense argues that it is improper to question the integrity of Somãa in the testimonies of witnesses, because it is foolish to judge Margaret based on the words of witnesses who are seven degrees removed, when the records themselves contain ample and overwhelming evidence that she should be judged based on her own words. It is also futile to object that Alphonsus declared the marriage unconsummated before a secular magistrate through his procurator. For Alphonsus brought Margaret before the secular tribunal in the third year of their cohabitation, because she was unwilling to perform marital duties. Therefore, in that matter, he was acting in a manner completely different from that of an unconsummated marriage. Indeed, it is not entirely dissimilar that Margaret, even though she initially consented to the consummation of the marriage, after two years, decided to resist her husband. But even if it were the case, the defense argues, that Alphonsus declared the marriage unconsummated in the secular court, when it is clear that all the grievances that Alphonsus brought before the secular court were vehemently denied by Margaret, then he also denied the unconsummation through his procurator; which, therefore, must be rejected from the outset

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of this trial, because the confession of the procurator harms the defendant, whether it was made under the force of a special mandate or through the means of contentious jurisdiction. Moreover, the examination performed on the woman's body does not sway the defense, because at that time, midwives and doctors hesitate and do not dare to affirm virginity with certainty. This hesitation demonstrates sound medical judgment. For, as the eminent Zacchia testifies in *Quaestionum Medico-Legalium*, book 4, title 2, question 1, paragraph 14: "There are no certain and inseparable signs of virginity"; to which Barzellotti concurs in *Medicina Legal*, chapter 4, paragraph 43. Therefore, "this matter," as Sauchez de matrim states in book 7, discussion 113, paragraph 10, and discussion 108, paragraph 8, "is of the most difficult proof, even to the highest degree, because women use many deceptions by which they appear to be virgins." Hence, Honorius III in *Ada*, volume XXVI, section COCIX, 36.

[*Latin ed. p. 562*]

562. In the trial, the defense argued: "Often, hands err, and eyes deceive." Furthermore, the defense asserted that there were special and serious arguments available to demonstrate that the purity of Margaret was not certain. Moreover, the lawyer continued, the examination of Margaret's body was conducted almost seven years after the cessation of conjugal life. Indeed, nothing prevents such a long interval of time from causing the signs of violated virginity in a young woman to disappear. The learned expert in the healing arts, Barzellotti, had previously stated this in his work, § 32, and the most esteemed Zacchias had written on the matter in his work, *Quaestiones Mediae, Legales*, Book 4, Title 2, Question 3, paragraph 5. After these remarks, the lawyer discussed the reasons for granting a dispensation, and first, he maintained that the alleged consent, according to the opposing party, with which the woman entered into marriage, appeared highly improbable. For not only did the negotiations for the marriage last for six or seven months, as Margaret herself confessed, but furthermore, the families of the betrothed were bound by ancient customs, and all those involved diligently sought information, and Margaret's will was carefully explored in a private conversation by Alphonse. Regarding the second reason presented by the opposing side, the defense pointed out that Alphonse not only did not reject Margaret, but that he spared no effort to persuade her to return to him and resume cohabitation. Indeed, very grave evils, and even acts of homicide, are to be feared if Margaret were to consider entering into other marriages; and the witnesses whom Margaret presents to prove her aversion to Alphonse, or the cause of that aversion, prove nothing, either because they speak of events that Margaret herself experienced at a suspicious time, or because, when giving their testimony, they reveal their partiality. Therefore, the defender of the sacrament concluded, the reason for which Margaret separated from Alphonse and for which she refuses to

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return to him, is that which the parish priest, Raymundo Scalbert, stated in these words: "She (Margaret) only had a somewhat independent and somewhat proud character."

[*Latin ed. p. 563*]

CHAPTER 563. Finally, concerning the third reason, the defender of the bond denies that there is a danger to the soul. Indeed, the soul of Alphonsus is not imperiled, since, according to the testimony of Happe, he has no intention of contracting marriage. But as for Margaret, the matter is resolved by a dilemma: either she gives credence to the truth, when she affirms that for more than two years she has lived with the man whom she freely chose, as a brother and sister; and when she says: "I made it understood that I did not want it; he tried, but I resisted"; or she deviates from the truth, when she asserts that she cannot contain herself. Indeed, if she speaks the truth, and if eternal salvation is dear to her heart, a remedy is at hand: let her return to her husband. With these premises established, the following question must be considered: Whether it is necessary to consult the Most Holy Fathers concerning a dispensation from a marriage that is valid but not consummated. The Sacred Congregation, having learned of the matter, on January 20, 1894, decided to respond: Affirmative. "FROM THE SACRED CONGREGATION OF BISHOPS AND REGULAR CANONS OF THE ARCHDIOCESE OF FANO. August 25, 1893. SUMMARY OF THE FACTS. In the town or territory of Mondami, in the diocese of Fano, by order of the Most Holy Pope Leo XII in the year 1828, concerning pious legacies, two houses were established gratuitously for young men in the diocesan seminary, as follows: "And furthermore, two in the ecclesiastical seminary for boys..."

[*Latin ed. p. 564*]

§64 FANO. "Houses at Fano, designated for the maintenance of two young men to be chosen by the same Bishop of Fano." These houses having been vacant in the years 1890 and 1891, Vincent Barbadoro requested from the aforementioned territory, by the Bishop of Fano, that one of these houses be assigned to his son, Rainerius, who was already fourteen years old and a student in the diocesan Seminary; but the Bishop declared that it was not necessary that those admitted should be natives of that place, but that it was sufficient that they should have a stable residence there. Neglecting the young man Barbadoro, in the selection, he preferred two other young men, namely Jerome Storioni, who was not born in that territory, but who only resided there, and Hyacinth Perugini. Against this manner of acting by the Bishop, Vincent Barbadoro presented complaints to the Holy Congregation of Bishops and Regulars. After receiving information on this appeal, the Holy Congregation, together with the Bishop's own statements, issued a completely contradictory response on

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December 1, 1890, as follows: "Having considered the information from the Bishop, let it be answered." Barbadoro did not comply with this response, but presented a new appeal to the Holy Congregation, supported by several documents, especially concerning the lack of proficiency in the Latin language demonstrated by his son. This new appeal, together with the Bishop's statements, was sent by the Congregational officials to the Bishop of Fano, who responded in a letter dated April 7, 1891, stating that it was easy for him to show that the claims of the appellant were not based on any right; but for this purpose, the documents or allegations of the opposing party must be communicated to him. These documents were sent to him by order of the Holy Congregation, not in the original, but in a copy, with the names of the signatories suppressed. And, newly insisting to the Bishop for the documents in the original, it was only permitted to him to appoint a suitable person to examine them in the archives of the Congregation. Meanwhile, in other letters dated September 5, the Bishop warned the Holy Congregation that he would transmit his allegations after the autumn holidays, as that time would be necessary for him to collect the documents. But after the holidays, the Bishop did not...

[*Latin ed. p. 565*]

FANO. After several unsuccessful attempts to resolve the matter, and with Barbadoro repeatedly urging a solution to this delicate question, on February 21, 1893, the Sacred Congregation ordered the case to be recorded and instructed the Bishop of Fano to investigate the matter, granting him thirty days to submit his findings, so that further action could be taken.

A SYNOPTIC ACCOUNT OF BARBADORO'S DEFENSE. In his published defense, Barbadoro maintains that the gratuitous lodging should be granted to his son, Rainerio, rather than to Jerome Stortoni, because Rainerio is originally from and resides in the territory of Mondavio, is poor, and has a clerical vocation which he diligently pursues.

Regarding the first point, he observes that the fact is so clear that not only his son, but the entire family, originates from and resides in the aforementioned territory, so that even the Bishop himself should not doubt it; rather, he insists on the legal right. Furthermore, he points out that the words of the Bull of Leo, which state "for two young people to be raised in that territory," denote origin, not domicile. He cites several decisions of the Rota, stating: "If I say that someone is from Perugia, what does that mean? Does it mean that he has a domicile there, or that he originates from there? And I believe that, according to common usage, it means origin, not domicile," as well as the Rota's decision before Caprara, number 650, paragraph 1, and elsewhere. Several decisions of the Sacred Congregation of the Council, including the one concerning Viterbo, regarding the dotal subsidy of June 21, 1766, also support this interpretation.

Furthermore, he argues that the meaning of the words in the Bull should

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be understood in accordance with a long-standing custom of sixty years: for, as testified by the President of the Congregation of Charity, as evidenced by the records of the Administration, the aforementioned lodgings have always been granted to young people originating from Mondavio, even though there are other young people in this territory who were not admitted, because they only had a domicile there and not an origin.

Finally, Barbadoro argues that this is evident from the pious intention of the benefactor, who wished to confer benefits on his fellow citizens and not on outsiders.

[*Latin ed. p. 566*]

566 FANO: Furthermore, it would have been said in general terms "for two young men"; therefore, one must adhere to his disposition "As it is written, so let it be," and since the law is clear, no exception or interpretation can be admitted, according to the teaching of Cardinal De Luca De Regidar, *Discourses*, 8, n. 3: "Where there is no ambiguity in the words, no question of the will should be admitted, nor any observance that is not given in the clear words." Therefore, Barbadoro erred, according to Barbadoro, when he said that it is indifferent whether the candidates are natives of Mondavio or have a permanent residence there. After this, Barbadoro proceeds to refute the accusations of the Bishop, especially regarding the alleged incompetence of his son in the Latin language. It is true that his son failed in the first and second examinations in Latin at the regional gymnasium; but this should not be blamed on him, rather it should be attributed to the bad method of teaching and the incompetence of the teachers of the Seminary of Fano: he supports his assertion with a letter from the Professor of the Fano Lyceum, who states that the teachers of the Seminary are ignorant of the methods of the regional gymnasiums in teaching the Latin language; indeed, even if the teachers wanted to, they could not, because they themselves must devote time to theological studies, and thus they lack the time. But more directly refuting the assertion of the Bishop, Barbadoro observes that his son is not so incompetent in the Latin language as the Bishop would have it: indeed, besides the fact that his son demonstrates aptitude in other scholastic disciplines, it is clear from the testimony of the Rector of the Seminary that, within a year, during the *media menstrua* (middle of the term), he obtained more than ten points in Latin, having achieved seven; this, however, gives good hope for his future advancement to higher classes. Regarding the second objection made by the Bishop, that the young Barbadoro does not persevere in his ecclesiastical vocation, the father replies that, even if Rainerius had shown this intention, it would certainly have happened because, having been denied residence in the Seminary, he saw all the paths to pursuing his studies closed to him; then, to remove all doubt on this point, he presents a passage

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from a letter dated October 11, 1890.

[*Latin ed. p. 567*]

In the aforementioned document, number 06, the son openly declares that he wishes to persevere in the holy purpose of entering the ecclesiastical state, even if others offer him contrary advice. Finally, Barbadoro, addressing the third point, namely the lack of poverty in the son, argues that the condition of poverty is unjustly demanded of candidates by the Bishop. For the Bulla does not prescribe it, but simply states "for two young people from that land," without distinguishing between different groups of people. Therefore, the saying applies: "Where the law does not distinguish, neither should we distinguish"; and this principle is all the more important because, in the same Bulla, when the founder established two endowments for girls, he expressly required the condition of poverty. Therefore, if, in the original institution, the founder did not express it, he should be considered to have not intended it. Up to this point, Barbadoro states that this is confirmed by custom, which is the best interpreter of the laws. Indeed, for fifty years, the aforementioned endowments have been granted to many young men, who were certainly not poor, and whose names are listed in the aforementioned testimony of the President of the Congregation of Charity. Furthermore, Barbadoro maintains that, given the nullity of the Bishop's nomination, his son should be preferred to the others, with the agreement of four other individuals, for the following reasons: 1° because he alone brought the complaint; 2° because his son preceded the others by one year in the Seminary, and therefore, being earlier in time, he has a stronger claim; 3° because, compared to the others, who are still young and recently entered the Seminary, his son demonstrates a greater hope of perpetually serving in ecclesiastical ministries; 4° but rather, Barbadoro derives the argument for the preference of his son from the fact that the founder established endowments in the Seminary, so that those who benefit from them might, at some point, be able to obtain one of the four positions of chaplain in the service of the parish of Mondavio, established by the same founder; moreover, since these endowments have an annual assignment of 200 livres, everyone can easily understand that they cannot be stably obtained except by the original chaplains from Mondavio; hence the reason why the founder wanted the endowments in the Seminary to be granted to young men from that land.

[*Latin ed. p. 568*]

568 FANO. But Storioni is not originally from Mondavio; he resides there only because of the position held by his father, who serves as a teacher in a school for the mentally disabled. This office is precarious and provides no right to a pension, and it is easily possible for him to be dismissed from day to day, forcing him to seek employment elsewhere. From these circum-

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stances, Farbadoro concludes that the nomination made by the Bishop of Fano should not be considered, and that the disputed position should be given to his son. THE RIGHTS OF THE BISHOP OF FANO. The Bishop, however, expresses a different opinion in his written statement. He states that four points are derived from the alleged *Bulla*: 1° That the Bishop of Fano has established two positions in the Seminary; 2° That these positions are to be filled by two young men from Mondavio, whether they are originally from there or have a permanent residence there; 3° That the right to nominate belongs to the Bishop of Fano, who is to make the nominations; 4° That the young men chosen must demonstrate a vocation to the ecclesiastical state, in order to be eligible for one of the positions of chaplain, which leads to promotion to the sacred order of the priesthood, and is suitable for one of the aforementioned chaplaincies. But, the Bishop continues, the young man Storioni surpasses Farbadoro in years of Seminary study, in his studies, and in his vocation to the ecclesiastical state: he surpasses him in studies because Storioni is in the higher class, the 5th Gymnasium class, while Farbadoro is in the 3rd Gymnasium class; and furthermore, in the 1st and 2nd examinations concerning the Latin language, Farbadoro was rejected: Storioni, according to the testimony of the Rector of the Seminary, exhibits signs of an ecclesiastical vocation, whereas Farbadoro does not; and Farbadoro, it is said, has postponed his decision regarding his state after obtaining his Gymnasium license, and is not very inclined towards piety. Therefore, the prelate justly maintained his nomination of Storioni. Furthermore, the Bishop argues that Storioni should be preferred, not only because he surpasses his rival in studies and will therefore more quickly make room for other young men, but also because he is poor: his father must support a family of five children and his wife, who cares for young children, with a monthly salary of 60 *libellae*; whereas the father of the young man Farbadoro, as a *cancellaio* [clerk],...

[*Latin ed. p. 569*]

FANO. 569. The applicant receives a monthly stipend of 170 lire from the Praetura, and furthermore, the young man has a wealthy grandfather, Aloysius Barbadoro, who supports him in the Seminary. It is indeed permissible to argue that free lodging should be granted to poor young men, as is stated in the Bulla Leonina, but it is clearly established in Article 0 of the Regium Decretum concerning the Fattori inheritance, and in the prescription of the Congregation of Charity of June 7, 1879, where it is expressly stated that young men must be of proven poverty. But setting aside these reasons, the Bishop argues that his nomination should be maintained, because the young man Stortoni can rightfully be considered a native of the territory of Mondava, to which the founder of the Fattori paid particular attention; and thus, he proves it. Joseph Stortoni, the father of Jerome, according to the testimony of the Municipality of Mondavio, is a

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native of S. Andrea de Suasa, a district of that Municipality, from which village he moved his household to Mondavio in the year 1874 in order to establish a permanent residence and practice the profession of teacher. Indeed, if the village of S. Andrea is a district or part of the Municipality of Mondavio, it follows that its inhabitants can be considered as others, forming the Municipality of Mondavio; hence, Jerome Stortoni can be said to have been called by the pious institution of the Fattori, for, according to the aforementioned Regium Decretum, young men born in the territory of the Municipality of Mondavio are eligible. Furthermore, from the fact that the father of Jerome Stortoni established his permanent residence in Mondavio in the year 1874 due to his profession, it follows that his son has become subject to the Bishop of Fano by reason of domicile. For under the name of citizens are included not only those born in a place, but also those who have acquired a domicile there, or who were born in the suburbs or in the villages of the same town, especially in matters that are favorable, as the S. Rota decreed on December 9, 1982, in Malines: "Under the name of citizens are included both true natives and also those who acquire citizenship or, by the retention of a residential benefit." Thus, Ferraris, in Vocab. Ciros, n. 87: "By the appellation of citizens are included also those born in the suburbs, especially in the aforementioned places." Hence, the son...

[*Latin ed. p. 570*]

570. A young man, having his origin from a father born in the suburbs or a village, must be received into the college of the city or town, since, according to the laws, he who is born in the continent [mainland] or from the village, and who is a native of the suburbs or the continent, is a citizen just as if he had been born in the city or town itself. Therefore, since, from the rights mentioned, the young man Storioni can best be considered a citizen of the land of Mondavio, there seems to be no doubt about the validity of his nomination to the position of Fattore. The Bishop states that this doctrine gains greater strength from the very words of the Bull, which makes no distinction between those born in the town or in the villages, and between citizens by residence, but only expresses itself in terms of the young men of that land. However, the cited Rota in Decree 982, n. 8, is quoted to explain that "when the name of a city or place is expressed in the genitive case or another case of similar importance, then the provision is not restricted to the precise location of the city, but also includes the suburb. But when mention is made of the city with the preposition 'in,' then those located in the suburb are excluded." Nor did the Holy Congregation of the Council feel differently in the case of the Lauretana Legators, proposed on several occasions and most recently on April 27, 1873: there, the original clergy of the place, commonly called Castelfidardo, wanted to exclude a parish priest from Lombardy from participating, because he was not a native of that town, but only resided there; and although the patron

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of the clergy presented evidence to the contrary, citing an ancient custom, the case was decided against him. Therefore, the Bishop argues, since the expression concerning the foundation of the town of Castelfidardo and Fattore is the same, the same resolution should be reached. Having clarified these points in law and in fact, the Bishop proceeds to refute the objections raised. First of all, he notes that it is utterly useless for Barbadoro to excuse his son's lack of knowledge of the Latin language, attributing it to a bad teaching method or the ignorance of the teachers in the Seminary; if this were true, the Bishop adds, then all the other students would have failed the examination; rather, this should be attributed to the son's own incapacity; therefore, it is not surprising that the priest father...

[*Latin ed. p. 571*]

"Furthermore," he said, "he was inclined to favor the technical course; and moreover, the assertions made by Barbadoro concerning the son's vocation to the ecclesiastical state, having been sufficiently and abundantly demonstrated in the recent discussions, the Bishop declared. But what is alleged to the contrary, namely, that all the young men admitted to the Fattori residence were originally from the land of Mondavio, the Bishop refuted as false: and he cites the example of the young man from Rossi, who obtained said residence, being born in Pergola; and he also stated that the authority of the Rota, brought forward to the contrary, should likewise be given no consideration: for it was seen by the Rota itself that a distinction exists between the mention of said land and of or from said land. Therefore, Barbadoro cannot usefully waste time proving to Stortoni that he is not from the land of Mondavio, and therefore has no right to a free residence in the Seminary. These are the better reasons on both sides."

Subsequently, the following question was presented to the Holy Congregation to be resolved: "Whether and how the designation of the young man Stortoni for a free residence at the Fattori, founded in the Seminary of Fano, can be sustained in this case."

The Holy Congregation of Bishops and Regulars, after diligent and mature consideration, on August 25, 1893, issued the following resolution: "Negative." And, adding another question by the same Fathers, as follows: "Whether a free residence should be granted to the young man Barbadoro from Mondavio?" The response was: "Affirmative."

[*Latin ed. p. 572*]

572 FROM THE SACRED CONGREGATION FOR THE RITUALS, CADURCEN. Concerning the ministry of women in the celebration of the Holy Mass. August 4, 1893. To the Reverend General Vicar of the Most Reverend Bishop of Cadurcen. The Sacred Congregation for the Rituals humbly submits the following question for appropriate resolution: It has frequently happened, and indeed, it is often the case, that a minister

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cannot be found to serve at Mass, so that the sacred priesthood must be dispensed with, unless the ministry of a woman is employed. Since it is doubted whether a true necessity, as mentioned in the Decree of the Sacred Congregation for the Rituals of August 26, 1836, (1) truly exists in this case, the following is asked: Can it be said that there is an urgent necessity in the case where a priest cannot celebrate the sacred sacrifice of the Mass, which is neither necessary for the administration of the sacrament to the sick, nor for the fulfillment of a precept? And the Sacred Congregation, after careful consideration and with the vote of another of the Masters of the Apostolic Ceremonies, deemed it appropriate to respond to the question in writing as follows: Negatively. And thus, it responded and declared on August 4, 1893. CARDINAL ALOISI - MASELLA. CADURCEN. It is commanded that the preceding decree not be put into effect. January 12, 1894. Most Reverend Lord, as a brother, I inform you that the Sacred Congregation for the Rituals responded negatively to the question concerning the ministry of women in the Mass on August 4th, of the aforementioned year (1; Veronen, dub. 10. Can a priest, having previously arranged all that which may be convenient for the sacrifice, forbid women from serving at the altar, so that only the ministry of a woman is employed for the responses? Response: Affirmative, unless there is a true necessity.)

[*Latin ed. p. 573*]

FROM THE SACRED RITUALS, sections 57 and following. Since certain inquiries regarding this matter have reached the aforementioned Congregation, the same Sacred Council has determined that the aforementioned points of the decree should be carefully examined, and in the meantime, the execution of the aforementioned decree should be suspended. While I communicate this to Your Eminence for the sake of my office, I earnestly pray for your lasting happiness.

Rome, January 12, 1894.

Your Eminence,

Brother CAL,

CARDINAL ALOISI-MASELLAS,

Archpriest of Trivento.

Regarding the cult to be rendered to the image of the Most Holy Virgin.

February 23, 1894.

Most Reverend Lord Julius Vaccaro, Bishop of Trivento, humbly submitted the following doubts for appropriate resolution to the Sacred Congregation of Rituals:

"In the church of Saint Cross in Trivento, there is a public image of the Most Holy Virgin, clothed in black garments, and in her usual habit; but

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she holds a crucifix in her left hand. Therefore, it is asked:

I. Can the cult of the Most Holy Virgin be celebrated under the title of "of the Cross"?

II. What is to be said regarding the aforementioned image?

And the same Sacred Congregation, after considering the aforementioned report of the Secretary, deemed it fitting to respond to the proposed doubts as follows:

To I: It does not matter in a liturgical sense.

To II: The decree of the Sacred Council of Trent regarding sacred images must be observed.

And thus it was responded on February 23, 1894.

C. L.

CARDINAL ALOISI-MASELLAS,

Prefect.

S. VINCENTIUS NUSSI,

Secretary.

[*Latin ed. p. 574*]

FROM SACRED RITUALS 374, PISCIEN: A question regarding canons who wear a ring while celebrating the sacred rites. March 9, 1894. The Most Reverend Master of Sacred Ceremonies of the Cathedral Church of Piscien, having been requested by his Excellency the following Bishop, humbly submitted the following question to the Sacred Congregation of Rites for a suitable solution: Whether the canons of the same Cathedral Church, who, according to ancient custom, wear a ring while celebrating the sacred rites, should be concerned, especially in light of the decree of the Sacred Congregation of Rites of February 12, 1892, which indeed prohibits this practice; but without adding the clause, "notwithstanding any custom"? And the same Sacred Congregation, after considering the aforementioned report, decided that the question should be written as follows: It is entirely necessary to adhere to the aforementioned decree. And thus it responded and ordered it to be observed on March 9, 1894.

+ CARD. ALOISI - MASELLAS.

R. C. Prefect.

L. %

S. VINCENT.

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Nussi, Secretary.

ROMAN, OR MACERATAN.

Decree of Beatification and Canonization of the Venerable Servant of God, Vincent Mary Strambi, priest, professed member of the congregation of regular clerics of the Most Holy Cross and Passion of Our Lord Jesus Christ, formerly Bishop of Macerata and Tolentino.

CONCERNING: Does it appear that the theological virtues of Faith, Hope, and Charity in God and neighbor, as well as the cardinal virtues of Prudence, Justice, Fortitude, and Temperance, and their corresponding virtues, were present in a heroic degree, in the case and for the effect of which we are speaking?

A testimony to Jesus Christ, concerning the sanctity of John the Baptist, may be offered to the Venerable Servant of God, Vincent Mary Strambi, since he has been a burning and shining light in the Catholic Church, in whose light those who cultivate the faith will always have ample reason to rejoice.

[*Latin ed. p. 575*]

From the Sacred Congregation of Rites, 575: Born in Centocelle, from pious and honorable parents, in the year 1745, from a very early age, he clearly demonstrated a love for the divine, piety towards God, love for his neighbor, innocence of manners, and sweetness of character, thus showing that he possessed the sentiments of Christ, and that he keenly felt what is of the spirit. Having begun his life as a priest, yearning to follow the example of the Apostle Paul, so that Christ might increase and that what belongs to Christ might be sought more and more, he founded, shortly before, the Congregation of the Most Holy Cross and Passion of Our Lord Jesus Christ, in which he was admired by all for his spirit of prayer and mortification, his zeal for the observance of the rule, his prudence, his charity, and his humility, with which he faithfully carried out the higher duties entrusted to him. Indeed, the admiration of men for the holiness of Venerable Vincent grew even wider because of his apostolic zeal with which he worked in sacred missions to bring souls back to the path of virtue. His eagerness for the preaching of the science and the saving word was so great, his efforts to eradicate scandals and vices, especially in the administration of the Sacrament of Penance, so diligent, and his solicitude and kindness in reconciling the contentious and receiving sinners, so abundant, that he rightly deserved the praise: "How beautiful are the feet of those who bring good news, of those who announce peace!" As Bishop of Macerata and Tolentino, although he was unwillingly removed from his post, he shone all the more, appearing like a lamp placed upon a candlestick, spreading the light of truth and the fervor of virtue. For twenty years and more, he

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fulfilled the office of bishop, serving as a new and perfect example of pastoral care; he devoted all his efforts to the holy instruction of the clergy, to fostering a sense of religion and piety in the people, and he spared no labor to ensure that his people might daily receive more abundant fruits of the salutary seeds of the Holy Gospel. Moved by divine charity, he stripped himself of all things, so as to help those in need, and he did good to young girls, orphans, the sick, women in danger, and the elderly, and he also established hostels for this purpose; thus, his memory remained blessed among all orders of citizens, who considered him a most venerable saint and called upon him by name. He experienced many trials and tribulations, as is proper for the just; but in these, the fortitude of the Venerable man shone forth especially when, for the sake of defending the rights of the Church, he endured exile with invincible patience, remembering the words: "For it has been given to us not only to believe in Christ, but also to suffer for him." Finally, when he was old, Pope Leo XII, of blessed memory, recalled him to his home in the Quirinal. There, he was held in the highest esteem by all the heavenly hosts, and when he had offered his life as a holocaust for the supreme good of the Church, and when the Rector was in danger, he was seized by apoplexy at the age of nearly eighty, having lived a life full of merit and years, and he died most holily on the kalends of January, in the year 1792. The fame of his holiness, which he enjoyed in life among men outstanding in piety and learning, and even among the Roman Pontiffs, was spread even more widely after his death.

[*Latin ed. p. 576*]

576 From the Sacred Congregation, it is known that, due to the extraordinary miracles which occurred through his intercession, granted by God to those who invoked him, an inquiry was instituted, according to the established procedures of the Apostolic Congregation, and after all necessary investigations were completed, in accordance with the constitutions of the Sacred Congregation for Sacred Rites pertaining to such causes, in order to examine the question concerning the virtues of the Venerable Vincent. Therefore, the matter was discussed through a threefold process: first, on the eve of May, in the year 1889, before the Most Reverend Aloysius Serafini, Bishop of Sabina, who presented the cause; second, in the Vatican, on the fifteenth day before December, in the year 1891; and third, in a general meeting held there on the fourth day before December of the preceding year, before His Holiness, Our Most Holy Father Leo XIII, in which the Most Reverend Cardinal presented the question: "Does it appear that the Venerable Servant of God, Vincent Mary Strambi, possessed the theological virtues of Faith, Hope, and Charity, in God and towards his neighbor, as well as the cardinal virtues of Prudence, Justice, Temperance, and Fortitude, together with their corresponding virtues, to a heroic degree, in the case and with the effects of which we are speaking?" The Most Reverend

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Cardinals and Consultors gave their votes. His Holiness, although testifying to his long-standing veneration for the Venerable Vincent, hesitated to pronounce judgment, and urged that heavenly assistance be implored. On that Sunday, after offering the sacrifice of the Mass in the chapel of Albano, and entering the Vatican hall, seated on the Pontifical throne, he summoned the Most Reverend Cardinals Caietan Aloisi-Masella, Prefect of the Sacred Congregation for Sacred Rites, and Camillus Masella, the new Promoter of the Cause, together with the Reverend Father Augustine Capra, of the Order of Friars Minor, and myself, the undersigned Secretary, and, in their presence, declared: "It is established that the Venerable Servant of God, Vincent Mary Strambi, possessed the theological virtues of Faith, Hope, and Charity, in God and towards his neighbor, as well as the cardinal virtues of Prudence, Justice, Temperance, and Fortitude, together with their corresponding virtues, to a heroic degree, in the case and with the effects of which we are speaking." And he ordered that this decree be promulgated and recorded in the acts of the Congregation of Sacred Rites, on the first day of April, in the year 1894.

C A I. CARD. ALOISI - MASELLA, Prefect of the Sacred Rites.

L. * S. VINCENTIUS NUSSI, Secretary of the Sacred Rites.

[*Latin ed. p. 577*]

FROM THE HOLY CONGREGATION OF THE COUNCIL OF GRAN. ON MARRIAGE. December 10, 1893. Session 4, Chapter 5, Concerning the Reform of Marriages. Sigismund Kubinyi and Elisabeth Balassovich were lawfully married on August 10, 1889, in the church of Budapest-Archis. Immediately after the marriage, the newlyweds began their marital life together, but it appears that the marriage was not consummated, due to the wife's impotence, which, according to the husband, three doctors declared to be absolute, pre-existing the marriage, permanent, and incurable. However, the spouses continued to live together until April 11, 1890, when Elisabeth, abandoning the marital home, went to live with her mother in Budapest, and has not returned to the marital home since. The husband, who was deeply saddened by his wife's impotence, and who had already been provoked and warned three times by the parish priest of Buda-Archis to restore peace and charity to his marriage, on December 19, 1890, presented a petition to the archiepiscopal tribunal of Gran, humbly requesting that his marriage be declared null and void on the grounds of impotence, so that he might freely enter into other marital vows. The episcopal curia of Gran arranged for the woman's body to be examined by two doctors; who, with unanimous agreement, declared that she was a virgin, and not impotent, nor with respect to her husband. The same Curia, on February 19, 1892, rendered a judgment of this tenor: "The petitioner's request is rejected, and the validity of the marriage between the parties of August 10, 1889, in Budapest, is affirmed."

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SUMMARY OF THE FACTS. Records, Volume XXVI, page 200, number 37.

[*Latin ed. p. 578*]

578 STRIGONIEN. The contract is maintained, with the plaintiff retaining his right, so that he may appeal to the Holy Apostolic See for a dispensation in a marriage that is valid but not consummated. Coherently with these supplications, Sigismund presented urgent prayers to the Most Holy [Father] for a dispensation concerning the marriage that is valid but not consummated. A Synopsis of the Discussion. THE OPINION OF A CANONIST. The Consultor stated: "The question is asked, whether the marriage between Sigismund and Elisabetta was valid, or not? The truth must be elicited from the evidence, but I confess that these [pieces of evidence] are not entirely clear, and they raise doubts, since the statements of the spouses, although confirmed by religious oaths, do not agree with each other regarding the impotence, about which inquiry is made in the present case, as to whether it exists, and in what degree. In matrimonial cases, one of the types of evidence is, first, the confession of the spouses; however, the narration of events after the beginning of the marriage does not have probative force, but must be carefully considered in conjunction with other evidence. Therefore, the aforementioned spouses appeared before the court and, after being questioned by the judge, or defensor vinculi, they responded. The plaintiff, or accuser, in the matter of the marriage, Sigismund, testified that he had attempted copulation three times, but had been unable to complete it due to the thickness of the hymen, which is a prior and permanent impediment, which can only be removed by a dangerous operation. He testified that he had attempted copulation three times without success; but the bride testified that she had only attempted it once. When asked why he was unable to complete the copulation, he responded: "Therefore, I was unable to consummate the marriage, because, according to the assertion of the doctors, Dr. Christen, Dr. Berenevy, and Dr. Bruk, the hymen of my wife is so thick and impenetrable that it can only be removed by a dangerous surgical operation." But the bride immediately responded: "According to the opinion of those same doctors, I am not impotent, and I am always willing to undergo a medical examination." Regarding the surgical incision, which the bride claims was refused by the groom, she responded that she refused the incision because it was deemed unnecessary by the doctor Bruk, who judged me to be healthy."

[*Latin ed. p. 579*]

STRIGONIENSIS. It is stated that she is 579 years old, and that she is suitable for marriage. Sigismund, when questioned about the cause of the disturbed peace between them, replied: "The cause was the illness with which my wife suffers, and her abandonment." The wife denies this: "I

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suffer from no illness." What is to be gathered from this discussion? In the examination before the delegated judge, the same contradictions are clearly evident between them, and it appears, unless the defendant states otherwise, that she contracted a disease from a single encounter with the plaintiff, a disease which the doctor judged to have originated from him: the name of the doctor is withheld. However, the plaintiff denies this, asserting that he has been very healthy since childhood. Finally, the defendant, when asked whether she wishes to live with her husband, replied: "No: 'I do not wish nor do I desire to live with my husband; but I do not wish for a judicial separation, because it would only cause me harm.'" (1) From these depositions of the spouses, the existence of true impotence has not yet been certainly established, since one party affirms, and the other denies, and they disagree with each other: witnesses, when giving contradictory testimony, as the laws proclaim, do not prove anything. Therefore, in the absence of other proofs, the Court of Strigonium, or the delegated judge, ordered a physical examination of the woman, in accordance with the Bull of Benedict XIV, and the Instructions of the Sacred Congregation of the Council of 1840, which prescribe: "If a complaint concerns impotence, expert physicians, whom the spouses have consulted, must be questioned." Therefore, the physical examination of Elizabeth was performed by doctors, as the Archbishop states, of this Court, men of outstanding learning and of recognized authority. However, midwives were not called, who, separately and under oath, should perform their duty, as the instruction of the year 1840 prescribes. Therefore, the doctors, whose exotic names are mentioned, diligently examined Elizabeth's genital organs, and, although with some curable defect or difficulty, declared, under oath, that she is suitable and not impotent for marriage.

(1) The woman, through legal means, obtained that her husband should annually pay her a certain sum of money, until their marriage was declared null or a dispensation was granted by the Holy See.

[*Latin ed. p. 580*]

580 GRAN. With these testimonies, they judged, and moreover, they presented a virgin, and indeed, one who was entirely intact. Furthermore, today, the testimony of physicians is considered of the greatest importance in ascertaining the lack of consummation of marriage, since a three-year period is no longer prescribed. Considering these things, the Gran ecclesiastical court pronounced that this marriage was valid. Therefore, after the preceding legal proceedings, if it is judged that a remedy is needed, the following is gathered from the aforementioned: 1. That impotence does not exist in the woman, but that she is fit for intercourse. 2. That she is still a virgin, and therefore, the marriage with Sigismund is unconsummated, but remains valid. Granting that the examination of the sexual parts in Elisabeth demonstrates her intact state, and that her virginity is undoubt-

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edly established, another question arises: whether it is advisable to request that the Most Holy [See] deign to grant a dispensation in this valid and unconsummated marriage. This dispensation is implored by the plaintiff, Sigismund, in the case, and the Most Reverend Archbishop seems greatly to desire it. From the aforementioned, it is clear that the marriage between Sigismund Kubinyi and Elisabeth Balassovich remains unconsummated, namely, from the sworn testimony of the spouses, and from the examination of the woman, as the judicial report of the physicians shows that she is a virgin and intact. A serious reason for obtaining a dispensation is considered to be that one of the spouses demands dissolution, while the other resists and opposes it. In this case, the woman detests living with her husband and requests separation, but she opposes the annulment of the marriage, because she would suffer a temporal loss. As any hope of reconciliation vanishes due to the disturbance of the souls, both spouses would be driven to increased continence, with the danger of incontinence and fornication, a reason which, according to Cosci, suffices to obtain a dispensation. *Liber L, cap. 16*. Furthermore, as the Most Reverend Archbishop points out, the man, frustrated in his hopes, might fall into despair, and even act against his own life, or...

[*Latin ed. p. 581*]

STRIGONIEN. 581, it is alleged, was brought forward to promote the Catholic religion, by converting Protestants. OPINION OF A THEOLOGIAN. The Consultor proposed two matters to be investigated: 1. Whether the marriage is, in fact, only valid and not consummated; 2. Whether there are grounds for granting the requested dispensation. Initially, only two arguments can be found in the procedural records to prove the lack of consummation of the marriage: namely, the deposition of the parties, and the testimonies of witnesses. Sigismundus Kubinyi, the plaintiff, was asked whether he had attempted to consummate the marriage, and he replied: "On that very night, I attempted to consummate the marriage... I tried three times." When asked again whether he had consummated it, he replied negatively. Similarly, the other party, namely Elisabeth Balassovich, was asked whether they had slept in the same bed on the first night of the marriage; whether they had attempted to consummate the marriage, and she replied affirmatively; but when asked again whether the marriage had been consummated, she replied negatively. However, it should be noted that the answers of the parties should be considered as extrajudicial, because there was no oath taken regarding the truthfulness of their statements, nor was there any subsequent consequence for speaking the truth. The presiding judge, a woman, explained the reason for the summons, the purpose of the proceedings, and urged her to answer the questions truthfully; but she did not utter a single word about taking an oath. On the contrary, the rule for determining whether a marriage is only valid and not consummated is

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derived from Decret. D. Gregorii, Lib. 4, de frigid, et malefic. tit. 15, cap. 5, Laudabilem. In it, it is written that both spouses must affirm, by actions consonant with the Gospels, that they have never known each other, nor have they become one flesh through carnal intercourse. Do both spouses, who have confessed that the marriage remained unconsummated, deserve full credit for their honesty? This would require that their answers be read aloud before witnesses, as mandated by S. G. C. Instructio, which states: "Then the examination must proceed in such a way..."

[*Latin ed. p. 582*]

582 STRIGONIEN. The first witnesses, that is, seven individuals closely related on both sides of the family, as mentioned in the text in chapter "Letters" concerning frigidity and marriage. Each of them, after hearing the preliminary examination or confession of the spouses, were questioned as to whether they had observed the piety and honesty of that spouse, so that they might reasonably believe, and that they believed him to have spoken the truth. Indeed, the witnesses were questioned as to whether they had heard that the marriage had not been consummated. The woman replied: that she had told no one except her mother and her husband. The man, however, added that he had told several friends that he had not been able to consummate his marriage. Therefore, the first argument, derived from the testimony of the parties, to prove the lack of consummation of the marriage due to the absence of certain formalities prescribed by law, does not seem entirely convincing. The second argument to prove that the marriage remained only valid and not consummated is, without a doubt, the examination of the woman's body, which, as the Glossa, Decret. D. Gregorii, Lib. 4 de frigid, et malef. tit. 15, cap. 5, and the instruction issued by the Sacred Congregation on August 22, 1840, prescribe. Therefore, two experts were called by the Court to examine the woman's body, namely, D. Emericus Rapesak and D. Alexander Feichtinger, who, after taking the customary oath, conscientiously testified as follows. Doctor Emericus Rapesak, after examining the woman's body, stated that Elisabeth Balassovich was not absolutely impotent, nor with respect to her husband, because a woman's tightness can be removed with certain remedies. He affirmed that this impotence was not absolute, and that it preceded the marriage, since the hymen was intact and had not been subjected to any operation. Finally, he affirmed that, since the woman's impotence was located solely in the tightness of the hymen, this condition could be removed by the skilled hand of an expert, without endangering her life. The aforementioned doctor testified concerning the impotence; but concerning the condition of the woman, whether she was a virgin or not, he did not utter any words other than the following: "the hymen was intact." As for the virginity of Elisabeth

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Balassovich, he...

[*Latin ed. p. 583*]

STRIGONIEN. 583, as the eminent Doctor Alexander Feichtinger states. Indeed, under the sanctity of the sacrament, it was declared that "the hymen was intact, the external parts did not touch each other, and were not corrupted; therefore, the ordinary coitus with a perfect male member was not consummated, and the marriage was not consummated." Therefore, from the foregoing, it is clearly deduced that, from the two arguments presented to prove the lack of consummation of the marriage, namely, the depositions of the parties and the testimonies of experts, only indirectly can the virginity of the woman be proven; but not sufficiently. Although the testimonies of non-experts may seem to be true and worthy of being admitted, nevertheless, the direct examination was intended to determine the woman's ability to conceive or her impotence, and not her virginity. If it had been done according to the proper procedure, then, without a doubt, other conditions required by law would have been observed, according to the Instruction of the Sacred Congregation of the Council, of August 22, 1840. Hence, it appears that from the mere examination of the woman's body, moral certainty regarding the lack of consummation of the marriage cannot be obtained. The Apostolic See, although in certain circumstances, dispenses with certain formalities, yet it does not usually dispense with the performance of the oath, both of the spouses and of the witnesses, and it desires to obtain certainty about this performance at least through the witnesses. *Acta Sanctae Sedis*, vol. 10, page 473. In the matrimonial cause in Florentina, among other things, the oath of the parties and witnesses was desired. Since this case was presented at the general meetings of the Sacred Congregation of the Council, held on January 28, 1877, His Eminences and Reverend Fathers, with a delaying resolution, ordered that the Bishop supplement the acts of the process according to the following instruction, namely... 3. that he should demonstrate from the procedural acts that the oath had been taken by the spouses and witnesses; and if this cannot be done, that he should ensure that the spouses and witnesses all confirm each of their depositions under oath, and that written testimony of the oath taken be presented. With things standing as they are, it seems to me, regarding the doubt: Whether one should consult with the Most Holy [Father] for a dispensation from the marriage.

[*Latin ed. p. 584*]

584 GRAN. Matters and new evidence having been presented in the case, it is to be answered: The process should be prolonged, and further evidence gathered. However, the Consultor proceeds; by previous mandate, concerning the marriage case defined by the Gran tribunal, and since the same tribunal has sent another necessary document, namely, an oath sworn by

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the parties regarding the truth of what they have stated, this undoubtedly should be considered as strengthening the process. Therefore, considering the newly presented evidence, the same Consultor arrives at this conclusion: since it is clear that the marriage remained unconsummated, and just and reasonable grounds exist for obtaining a dispensation, it seems necessary to appeal to the Pontiff to request this grace. OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE OFFICE. I. – The marriage bond, which, on August 10th of the year 1887, Sigismund Kubinyi, being thirty-eight years of age, contracted with Elisabetha Balassovich, who was over twenty-four years of age, was, at the beginning, declared invalid by Sigismund himself, declaring the wife to be unfit for the marital act; but, having received an unfavorable judgment, he now seeks a dispensation regarding the marriage, which he claims to be unconsummated. Distinguished consultants, both theologian and canonist, although concluding in favor of the petitioner, nevertheless clearly indicate that the requested dispensation is not entirely appropriate for the circumstances. Therefore, so that I may not appear to be acting unjustly, but rather justly, I adhere to these observations and request the following answer: – The evidence should be prolonged and supplemented. With the foregoing in mind, the question to be considered is whether or not to consult with the Holy See regarding a dispensation from a marriage that is valid but unconsummated. RESOLUTION. The Sacred Congregation of [Holy] Affairs, having considered the matter on December 16, 1893, decided to respond: With prior examination of the proceedings, affirmatively.

[*Latin ed. p. 585*]

585 LUBLIN. MARRIAGE. On January 20, 1894. Session 24, chapter 1, concerning reforms in marriage. COMPENDIUM OF THE AGREEMENT. Eleonora Majewska, having already reached the age of 24, happily married pharmacologist Johann Peretowski, aged 29, on March 7, 1886, in the parish church of the town of Drazgów, in the diocese of Lublin, according to the rites of the Holy Roman Church. Mutual love between the spouses (as the woman asserts) seemed to portend a happy outcome for this marriage; but the contrary occurred. Indeed, if credence is given to the words of the spouses, attempts at the consummation of the marriage were made for four consecutive weeks, but were in vain due to the husband's frigidity. Hence, discord quickly arose, and mutual aversion grew so much that the woman, physically weakened and distressed, left her marital home and went to stay with her brother. Five days later, Eleonora, following a summons from her brother, returned to her husband. But when attempts to fulfill the conjugal office proved equally ineffective as before, arguments, which had long since separated the minds of the spouses, were renewed with greater intensity, and after about three weeks, Eleonora bid farewell to her husband once again; indeed, a few days later, on July 8, 1886, the

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Lublin Consistory received a petition, requesting that her marriage be declared null, not on account of impotence. She affirmed that the man had been completely incapable of consummating the marriage throughout that entire time, although he had tried to achieve this with all his might, even using medications in the hospital of St. Charles in Novo-Alexandria. The Consistory first attempted to reconcile the spouses; but when this prudent counsel proved fruitless, a trial was instituted. However, it should be noted that it is not entirely clear from the records whether the proceedings were conducted according to the form required by law.

[*Latin ed. p. 586*]

586 LUBLIN. The judgment was rendered, for the documents transmitted to the Sacred Congregation appear to favor brevity rather than a complete record. There is a lack of a detailed description of the sessions, which is usually prepared by the notary in similar cases; the interrogatories are missing; the testimony of a seventh witness is barely indicated, and for the part of the husband, it is omitted for this reason, namely because John, in letters sent to the Congregation on April 8, 1887, declared: "that he lacks relatives and affines, and is not connected with any neighbors or anyone else, and therefore he does not have the means to provide witnesses, either of the seventh class or relevant to the case." However, at the end of his deposition, these words are found: "John stated that he undertakes to provide witnesses who would approve of the trustworthiness of his confessions and would attest to matters relevant to the case." Finally, it appears that the depositions were not read to the deponents, so that they could approve and sign them. With these points noted, the record of the proceedings must be reviewed. We read that a woman, the man, witnesses, doctors, and midwives were summoned for examination; and after all of these had been questioned, and after the supplementary oath regarding the lack of consummation of the marriage by the spouses had been obtained, the Lublin Congregation on October 26, 1888, declared: "the marriage of John and Eleonora, née Majewska, spouses Peretowski, celebrated on March 7, 1886, in the parish church of Drazgow, is null, due to the canonical impediment of the husband's physical impotence." Since the defender of the marriage, as prescribed by law, appealed to the Metropolitan Tribunal of Warsaw; this Tribunal, having discovered discord among the doctors, and also a contradiction between their opinions and the reports of the midwives, overturned the decree of the Lublin Congregation, and thus recognized the marriage of John and Eleonora as valid. This grieved the plaintiff, who appealed to the Holy See, humbly requesting that one of the Provincials be appointed to hear and decide on her case in a third instance, given her exhausted resources in conducting the proceedings. On August 7, 1890, she

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received a reply, indicating...

[*Latin ed. p. 587*]

LUBLIN. 587 To the Archbishop of Warsaw, from the Defender of the Marriage, by office, regarding the need for a new examination of the man and woman, to be conducted by three physicians, with all prescribed precautions and appropriate measures strictly observed. The examination, ordered, was completed on the bodies of the man and woman by three physicians, according to the instructions of the Defender of the Sacred Bond. A Synopsis of the Discussion, THEOLOGIAN'S OPINION. Although the question in the case is presented in the style of the Curia: Whether the judgment of the Metropolitan Curia of Warsaw should be confirmed or overturned; nevertheless, since in this type of case it is most desirable that lawsuits be concluded as quickly as possible, the following could be added: Affirmative to the first part, Negative to the second part: Whether consultation with the Most Holy Father should be sought regarding a dispensation from a valid but unconsummated marriage in this case. And first, it must be considered: Whether the judgment of the Metropolitan Curia of Warsaw should be confirmed or overturned in the case. Regarding the provision in 2°, it is a clear matter that the acts should be healed, but only for those for whom there is a valid principal process, from which the judgment was issued, either by the Consistory of Lublin or of Warsaw. Now, why: The provision in 2° should, strictly speaking, be stated as: Affirmative to the first part, Negative to the second part. Indeed, Benedict XIV also observes in the Constitution *Dei Miseratione*: "No human presumption can dissolve the Sacrament of the Catholic Church," and it would be presumptuous to declare a marriage validly contracted to be null, based on an insufficiently proven physical impotence in the man, which is antecedent, incurable, or absolute or relative; which, we believe, occurred in the judgment of the Curia of Lublin. Indeed, experts in the processes of the Curia themselves stated unanimously: "That John Peretowski was impotent, and that his impotence was antecedent to the marriage, absolute, and incurable." But from where does this common conclusion come?

[*Latin ed. p. 588*]

588 LUBLIN. Firstly, it is evident that the reports of the physicians are fraught with defects, and that the conclusion of impotence, which should be drawn, cannot be considered certain. 1. The observation made is exceedingly superficial, as is discernible from the very words and the manner in which the experts express themselves. This is especially evident from the variety with which they estimate the substantial aspects of the case. The Metropolitan rightly observes: "Since the physicians themselves assert different magnitudes of the male member, and such a diversity of opinion and of this magnitude cannot be excused, when one physician, Dutkiewicz,

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states that the male member is 5 inches long and one and a half inches thick, while Ciechonski assigns it to be 2 inches long, and only half as thick, it is manifest that the investigation of the physicians has not been conducted diligently and accurately." 2. Impotence is rather inferred from the statements of John, than from any defect in his body; indeed, and by postponing faith in the man to whom marriage is important, one would bid farewell to the very marriage that would result from the inspection, contrary to the very impotence itself. Considering these things, how could any doubt be removed in our case regarding the existence of impotence of any kind in the man, or at least regarding its incurability? Therefore, what conclusion should the experts have reached, and consequently, what judgment should the Court of Lublin have rendered? Certainly, for the validity of the marriage: In a doubt about antecedent impotence, one must stand for the value of the marriage, and the spouses must be allowed to experience it, as stated by St. Liguori, n. 1103, and by Gury, De Matr., n. 856, 2. Hence, the three years granted by Canon Law, notwithstanding a greater probability of perpetual impotence, as stated by Gury, loc. cit., and by II. 855, in accordance with Divine Law, as the opinion of all theologians indicates: Neither subsequent nor antecedent impotence dissolves a marriage; because the actual use of marriage does not pertain to its essence, and it suffices that consummation either has been possible at the time of the contract, or is possible in the future.

[*Latin ed. p. 589*]

LUBLINEN. 589 11111. Quare, sicut dixi antea, hoc debet esse rigidissime statutum: Affirmative ad primam partem, Negative ad secundam. Nec licet iudicium mutare ex actis ulterioribus ex iniunctione Sacrae Congregationis. Processum indictum pro nova peritia corporum utriusque coniugis iam perfectum est, secundum praeceptum Constitutionis Benedictinae et instructionem Sacrae Congregationis. Ex inspectione peritorum excerpsit quae maxime ad nos pertinent. Dominus Eduardus Derzoicski, professor universitatis et scrutator anatomopathologicus, cum viginti annis et plus experientiae, post scrupulosam investigationem in casu, dixit: "Nulli adsunt in Ioanne Peretowski morbi generales, qui provocare possint impotentiam physicam. Sub respectu locali genitalia minime eum praebent aspectum, qui impotentiam statuere cogant." Intelligendum est hoc de impotentia absoluta. Quid de relativa? "Non obstante defectu signorum materialium, quae impotentiam demonstrent, condicio eum relate ad uxorem esse impotentem." Hoc tamen hic et nunc; nam sequitur: "Impotentia Ioannis Peretowski erga uxorem est relativa et acquisita. Num haec possit aliquando sanari, id determinare difficile est." "Impotentia relativa Ioannis est naturalis, proveniens ex generalitate eius organismi, ideoque matrimonium praecessit, atque de eius curatione difficile est quidquam dicere." Quae ab aliis adnotantur,

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multum videntur favorem impotentiae, vel absolutae, vel relativae, nec non etiam praecedentis Dni Ioannis Peretowski. Verum, hoc non impedit ut opinionem et responsionem nostram referamus, quod ipsi dicunt in questione de ipsius perpetuitate. Postremam addam hic observationem, qua magis magisque confirmo, sicut in allata responsione ad primum dubium. A peritis processus additionalis unanimiter dicitur: "Ioannem Peretowski cum defloratis rem habere posse. Ergo adhuc vim retinet Ioannes seminalem substantiam emittendi." Hoc in casu, nonne periculosum admodum esset?

[*Latin ed. p. 590*]

590 LUBLIN. To pronounce a judgment of nullity is now commonly accepted among physicians and natural scientists; is it not absolutely necessary that a man should ejaculate seminal fluid and introduce it into the innermost parts of the female organs, but is it sufficient that such fluid be applied to the external surface of the same organ, or to the mouth of the vagina? Wallisnieri, *Istoria della gen. dell'uomo*, part 1, chapter 8, number 7, and part 2, chapter 13; *Dizionario Classico di Medicina esterna ed interna*, Venice, 1834, at the word *Impotenza*, volume 17, page 89. I believe this is sufficient to demonstrate that, speaking strictly, in the question: "Should the judgment of the Metropolitan Court of Varsaviensis be confirmed or overturned in this case?" the answer should be affirmative in the first part, and negative in the second. Nevertheless, it is of great importance that the Church resolve and conclude these cases as quickly as possible, since they greatly influence the salvation of souls. Therefore, I believe that, through an additional process, and considering the power granted to the Roman Pontiff by Divine Providence for this purpose, there is a way to address our difficult case. Therefore, instead of answering the first question, I propose to discuss the following, as stated at the beginning, a second question: "Should the Most Holy [See] grant a dispensation from a valid but unconsummated marriage in this case?" This method of resolving the matter is supported by the following authorities: DD. Pignatelli, *Consult. 148*, number 14, volume 1; Cardinal De Luca, *Discept. 7*, number 7, *De Matrim.*; Coscius, 423, chapter 2, section 28, etc.; and the Sacred Congregation has made pronouncements not dissimilar to this, as seen in *Nullitatis seu Dispens. Matrim.*, September 12, 1833; *Neapolitana Matrimonii*, March 27, 1838; *Leodien. Matrimonii*, June 26, 1878; *Neapolitana*, March 2, 1861; *Neapolitana Nullitatis seu Dispensationis Matrim.*, June 14, 1862; *Mechlinien. Matrim.*, December 17, 1887, and countless others. I believe that the proposed question can be answered as follows: "It is permitted to the man, without consulting the Sacred Congregation,

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to enter into another marriage."

[*Latin ed. p. 591*]

"LUBUNEÌS". 591. In such cases, two things must be demonstrated: 1° that the marriage was not truly consummated; 2° that there are reasons for which a dispensation may be granted. No one will doubt that the existence of virginity in the woman clearly demonstrates the lack of consummation of the marriage. I am most moved to affirm this, especially by the judgment of experts in the process held in Varsaviae, conducted in accordance with the instructions of the Holy Office of August 22, 1840, and with the special instructions contained in the letter addressed to the Archbishop of Varsavien, dated August 7, 1890. By the same judgment, all scruples that could be raised regarding this matter are removed, based on the acts completed beforehand. How important the authority of experts is in these cases is well known; especially if these experts are of commendable and proven merit: which is what the Holy Congregation requested from the Archbishop of Varsavien, in the aforementioned letter: three doctors of the highest standing in their art and of outstanding moral character. There is no doubt that the Archbishop complied with this mandate, as we see that he appointed Catholic experts, advanced in years, and among them, Mr. Petrum Przewoski, professor at the University and anatomopathologist for twenty years or more. Indeed, the firmness with which the experts judged, after the most careful examination, that the Lady Eleonora had not lost her virginity, is evident: 1° from the attached documents and the words with which they present the entire matter; 2° from the fact that, considering all other considerations, they hold the same virginity as an undeniable argument for the lack of consummation of the marriage; 3° from the manner and reasons with which they refute the objections raised against the initial examination. I do not know if one could reason more clearly and wisely on this matter. This intimate conviction of the experts is all the more certain because they hold the aforementioned virginity as an undeniable argument for the lack of consummation of the marriage in this case. In truth, witnesses have testified that the state of virginity of the woman is an argument for the lack of consummation of the marriage; and that the person who is not fulfilling the marriage in this case is undoubtedly a man.

[*Latin ed. p. 592*]

592 LUBLIN. However, arguments could be presented against this opinion, which were noted after an examination and by experts in the proceedings that led to the judgments, first by the general tribunal of Lublin regarding the nullity of the marriage, and then in the second instance by the metropolitan court of Warsaw regarding the validity of the same marriage. We shall, however, demonstrate that these arguments are not conclusive

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or well-founded. We preface this by stating that 1° all that was required was completed in that examination, as prescribed by the Sacred Congregation in its instruction of August 22, 1840. 2° It was not the doctors who were examined, but only the midwives. 3° The main difference between the notes made by the midwives and the notes subsequently made by the experts in the additional proceedings lies only in regard to the existence or condition of the hymen. Although they presented a different opinion regarding the condition of the hymen, both the midwives and the doctors testified in favor of the virginity of Eleonora. The experts, in the additional proceedings, determined that the cause of the disagreement among the midwives regarding the virginity of the woman was due to their incompetence and the difficulty of the matter. To obtain a dispensation regarding an unconsummated marriage, alienation of affection, or probable or certain impotence of the man, can be alleged. We believe that, based on what has been said so far, it is not possible to declare the marriage null, but it is certainly important to request and obtain a dispensation. "When even probable impotence exists, the dispensation is not properly and strictly a grace, but rather a prudential administration of justice," says Ursaja, volume 1, page 2 and following, number 104. This principle was particularly emphasized by the Sacred Congregation, which repeatedly affirmed this point in response to similar questions, as can be seen, for example, in the Neapolitan cases concerning nullity or dispensation from marriage, of June 1862, and in the Warsaw case concerning marriage, of February 1800. Finally, to obtain a dispensation, the cause of the woman's health being at risk, and the risk of fornication, are cited. OPINION OF THE CANONIST. The consultant first asks what judgment the doctors rendered regarding the new examination, ordered by the Sacred Congregation on December 22, 1890. And he responds that all these men of medicine, both distinguished in conscience and in knowledge, without hesitation, affirmed...

[*Latin ed. p. 593*]

593 LUBLIN. It was declared that the Virgin Eleanor. They explain the contradictions between the doctors and midwives, and among the doctors themselves, in the initial examination. "The doctors," they say, "in the first examination assigned different dimensions to the penis of Peretowski, due to a faulty method of measurement, not from a stable point to another stable point, that is, from the apex of the penis to the base on the bones, but from the apex of the member to the surface of the skin, which can be compressed, and also more or less retracted. The midwives disagreed about the virginity of Eleanor Peretowska, due to her pathological condition and the resulting difficulty in discerning more subtle matters." Briefly, Bondy states: "As for the difference in the dimensions of the penis of John Peretowski, this could have arisen solely from a discrepancy among the doctors themselves regarding the method of measurement; the midwives

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disagreed due to incompetence." Furthermore, it is not sufficient to declare a woman a virgin simply by examining the hymen, as Zacchias, in his *Quaestiones medico-legales*, book 4, title 2, question 2, paragraph 16, states: "Perhaps it is prudent to consider the very appearance of the area, desiring it to be of a healthy and natural color, not pale or discolored; also, the parts of the uterus itself should be endowed with a certain firmness and resilience, not lax or flaccid, nor moist, but dry. Moreover, the entire body should be considered: for 'even the flesh is softer in the corrupt, and firmer and more resilient in virgins. Also, the color is more vivid where the virgin has been violated, noticeably returning... Among other things, the breasts and their nipples should be observed; the breasts should not be flaccid and lax, but gathered into themselves; and the nipples should be suffused with a natural color, or a certain redness; they should not be discolored or blackened; nor should they be marked with a certain dark circle.'" The doctors of Warsaw presented and explained all of these signs in favor of the virginity of Eleanor. Furthermore, the brevity of the penis cannot be an absolute argument of the man's impotence in consummating marriage—*Acta*, Volume XXVI, page CCOX, 33.

[*Latin ed. p. 594*]

504 LUBLIN. Zacchias enim scribit, in loco citato, cap. n. 8, seq.: "Virgo potest deflorari, et etiam concipere, sine eo quod hymen disrumpatur, ut concludunt nonnulli praedictorum auctorum. Hoc autem dupliciter evenire potest. Uno modo, si membrana, illa adeo dura sit, ut disrumpi a congressu non possit; tum vero, si vir intra uteri collum semen effundat, et uterus illud attrahat per orificium quod perpetuo in ea membrana reperiri certum est et minime controversum, potest mulier concipere. Secundo modo, si vir membrum habeat admodum breve et membrana illa sit altius ulteriusque posita; tunc enim idem quod in superiori casu evenire poterit. Addam duos alios modos; unum si, virga tenui existente, hymenis orificium sit ampliusculum, nam absque hymenis dilaceratione mulier corrumpi potest et concipere..." – medici Varsavienses non sumunt argumentum pro impotentia temporali viri unice et potissimum ex brevitate virgae, sed etiam ex aliis signis, et maxime ex non sequuta erectione penis. D. Maridewicz dicit, erectionem virgae in Peretowski posse quidem habere locum, sed ob causas quas affert, non in gradu sufficienti ad legitimum concubitum. Prewoski ad quaesitum: Potestne Peretowski ita erigere membrum virile, ut rem maritalem accurate cum seminis effusione intra vas muliebre peragere valeat? – respondet: "Nihil est quod demonstret ita esse non posse; ideoque Ioannem Peretowski statuo laborare impotentia relativa;" i.e., possibilitatem non negat absolutam, puta cum mulieribus corruptis, sed relativam, cum coniuge sua. D. Bondy ad hoc idem quaesitum dicit: "Opinor, membrum virile Ioannis Peretowski non posse ita adequate erigi, ut valeat uxorem suam deflorare." Hanc vero

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erectionem virgae essentialem esse in consummatione matrimonii patet ex se, et a Canonistis extra dubium ponitur. "Si vir, inquit La Croix, lib. 4, p. 3, n. 793, vas femineum penetrare non possit, quamvis in illius introitu semen effundat... censeri debet impotentia, quia talis seminatio non sufficit per se ut tales coniuges, modo naturali censeantur fieri una caro." Et Zacchias loco cit. lib. 9,

[*Latin ed. p. 595*]

LUBLIN. 595 tit. 1, quaest. 1* n. S, 9* says: "If the proper conjunction and insertion of the members does not follow, if the true seed of the man is not ejected... or does not properly penetrate, then this union will never be suitable for generation, nor can it be said that marriage has been consummated through it." The physicians of Warsaw conclude as follows: Prewoski: "The relative impotence of John Peretowski preceded the marriage, and it is difficult to say anything about his cure." Bondy: "I consider this impotence incurable, having arisen before the marriage; I consider John P. incapable of perfectly conjugating with uncorrupted women." Markiewicz: "It is difficult to determine whether such impotence can ever be cured. I consider John P. unfit to fulfill the marital office with uncorrupted women." Should we believe the physicians and trust their observations without danger? If we were to inquire about the absolute certainty of their observations, the answer would certainly be negative. From the cited Zacchia, it seems that the integrity of the hymen cannot be an infallible sign of virginity. After presenting several cases, some of which we have cited, which show that a woman can conceive even without the tearing of the hymen, he says: "You see, therefore, how many ways virginity can be corrupted, and yet a woman may appear to be the most chaste virgin to those who observe her, if we trust in these external signs." Nor can other signs, taken from the entire body, give us absolute certainty about the preservation of virginity, as we see in the reports of the physicians of Warsaw. "Certain laxity of the breasts," says Bondy, "and laxity of the female genitalia, prominence of the lips, and even a slight injury to the hymen cannot constitute proof of lost virginity, but in some cases may result only from the attempts at copulation; as for the laxity of the breasts, this condition occurs frequently even among virgins." But if the testimony of physicians were to be rejected because nothing absolutely certain can be derived from external signs, why would one resort to their art? The testimony of physicians can...

[*Latin ed. p. 596*]

596 LUBLINEN. We can only offer moral certainty that true impotence exists, and that the marriage has not been consummated; and this moral certainty is sufficient for the matter at hand. Canonists, such as Reiff, in book IV, Decrees, § VIII, state that not only is it possible, but it *should* be, to annul a marriage where there are morally certain signs of impotence. Nor

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are experts required to swear to absolute certainty, but, as Sánchez teaches, it is sufficient that they testify truthfully, according to the estimation they have obtained through their professional expertise. These statements are made to prevent difficulties that often arise in this matter. From the sworn testimonies of the spouses, from the testimonies of doctors, and from the seventh witness, we therefore have, in this case, solid and complete proof of the man's certain impotence, which is antecedent, incurable, and permanent; for, according to the opinion of doctors, impotence acquired through the abuse of venery and onanism is incurable after 30 years. Therefore, a declaration of the nullity of the marriage should be made. However, the Sacred Congregation [of the Holy Office] ordinarily chooses, in similar cases, to proceed through the path of grace, leaving aside the path of justice, that is, by consulting the Most Holy [Pope] for a dispensation from a valid but unconsummated marriage. The question is, whether, in our case, given the lack of consummation of the marriage, which, from what has been said, seems sufficiently proven to me, there is cause to dissolve a valid but unconsummated marriage? Certainly, this very impotence is sufficient. For, according to the Doctors, when dealing with a case of a gracious dispensation, it is sufficient if the impotence is probable, so that the Supreme Pontiff may consider it to be true and, therefore, to grant the dispensation. Even if there were doubt about the permanence of the impotence, Coscius states, in book 3, chapter 2, "However, the matter is different in questions of nullity arising from impotence, through which the marriage is itself null and cannot achieve its end and effect. Then, because we are dealing with an injury being inflicted upon the very sacrament of marriage, the rule proceeds directly in the opposite direction, namely, that in case of doubt, one must stand for the exclusion of the marriage, for this very reason."

[*Latin ed. p. 597*]

LUBLIN. §97 Because, in the external forum, in which the Church judges, it is more tolerable and more honorable to dissolve a marriage through canonical proofs, and according to the discipline of the Church, than to provide, by name and by the law of marriage, an opportunity for incontinence, and to foster a continuous sin. OBSERVATIONS OF THE DEFENDER OF MARRIAGE FROM OFFICE. Eleonora Majewska, aged 24 years, was married on March 6, 1886, to the pharmacist Ioannes Peretowski, aged 29 years, with whom she shared the marital bed for approximately two months, after which, on June 26, 1886, she declared the marriage invalid and the man unfit for the work of marriage. The fortune of Eleonora was jeopardized in the first court, but she was opposed in the second. For the metropolitan court of Varsaviae, on March 16, 1889, overturned the judgment of the court of Lublin, declaring the marriage valid. It is undoubtedly the case that the court of Varsaviae keenly examined the matter. Whatever may be

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said about the alleged impotence of Ioannes, it is by no means certain that it is permanent or incurable. Indeed, from three archiaters, who, by order of the court of Varsaviae, or rather, the Sacred Congregation of the Council, examined Ioannes Peretowski, the first, namely Ioseph Marchievicz, after a judicial examination, reported: "At present, the sexual capacity of Ioannes P. Peretowski, both towards his wife and towards other women, is very doubtful, and it is probable that he is unable to consummate the act of copulation... It is difficult to determine whether such impotence can ever be cured." The second expert, Eduardus Przewoscki, concluded: "The impotence of Ioannes Peretowski towards his wife is relative and acquired. It would be difficult to determine whether it can ever be cured." The third physician, Eduardus Bondy, rather than affirming the permanence of the impotence with certainty, seems to conjecture. He stated in the judicial examination: "Since the marriage in this case has not been consummated, and since such patients often occur, I consider this impotence to be incurable." Learned theologians and canonists have sought refuge.

[*Latin ed. p. 598*]

598 LUBLIN. Concerning the dispensation regarding marriage, which they themselves claim to be unconsummated, the testimony of the aforementioned physicians is presented, who, after examining the body of John, turned to Eleonora, proclaiming her, in veiled terms, to be a virgin. Therefore, let the Fathers consider for a time the testimonies of these physicians; for from them it is evident how little weight they deserve. Let us begin with the expert, Joseph Marchiewicz, who concludes: "From these observations, I form the opinion that there have been repeated attempts and attentions at intercourse, which is evidenced by the injury to the hymen; however, these attempts have been unsuccessful, as demonstrated by the fact that the labia majora and minora are not torn, nor is there a noticeable lack of elasticity and resistance, nor a narrowing of the opening, which would be the case after a complete and repeated act of copulation." Furthermore; this physician considers that repeated acts of copulation are necessary to lose virginity and consummate a marriage, whereas it is certain and proven that a single act of copulation is sufficient. Then, he states that the labia majora are not torn; indeed, in the description of the genitals, he clearly states: "The labia majora are pink, smooth, and cover the labia minora." Finally, he emphasizes the narrowness of the opening. However, Sophia Czubaszkowa, the first of the three midwives who, at the order of the Lublin court, examined the body of Eleonora in the initial judicial setting, reports: "The labia majora are lowered and open, from which the labia minora protrude slightly, of a darker color, and the hymen of virginity is absent, and only a sign of it remains." Catherine Sandecka, the second of the three midwives, testifies: "The labia majora are separated in the middle and are of a darker color, sufficiently distant from each other, so that the labia minora protrude

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between them." Finally, the third midwife, Bogumila Szadkowska, affirms: "The labia majora, slightly separated from each other, are of a pink color, and the labia minora are also of the same color, slightly protruding." The expert, Przewoski, says: "L-

[*Latin ed. p. 599*]

LUBLIN. 599. "Bia minora magna prominent ex maioribus in extremitatibus conspicuis...." "Labia pudenda maiora satis parva, nec stricte cohaerentia." Quae omnia complectens, medicus Cieconski ait: "Labia pudenda maiora bene evoluta detrita, non convenire inter se solide et de iis minora labia prospicere coloris obscuro-rosei bene evoluta." Quo vero ad assertam angustiam ostii, praefata obstetrix Szadhowska testatur: "Aditum in vaginam esse liberum; (pii indicem complecti possit)." Obstetrix Sandecha: "Aditum in vaginam aliquantulum esse arctum, laevem, pallido-rosei coloris." Czubaszkowa: "Vaginam in aditu e dextra parte esse sensibilem, ligaturam deesse." Medicus Przewoski fatetur: "Ostium hymenis, satis magnum, permittit penetrare summitatem indicis." I nunc et crede, sodes, perito Boudy, qui matrimonium inconsummatum censet "attento praesertim tam angusto ostio," perito Przewoski, dum affirmat: "Hymen adest, cur'a omnem controversiam... Margo hymenis liber nusquam praesefert scissuras." Tene itaque facta supra exscripta, quippe quae uno velut ore testantur a tribus Lublini obstetricibus et partim etiam a Varsaviae medicis: ac statim comperies obstetricem Czubaszhowa iure optimo merito affirmasse: "Eleonoram consummasse matrimonium physico modo," et obstetricem Sandecha: "Eleonoram virginitatem amisisse." Neque me movet obstetrix Szadhowska, quae apud iudicem deponit: "Eleonoram esse virginem, fundans iudicium suum in existentia membranae virginalis ex parte, cuius divulsio fieri potuit conatu consummandi matrimonium aut aliis ex causis." Quae cum ita sint, ad inscriptam rogationis formulam "An sententia curiae metropolitanae Varsaviae diei 16 Martii 1889 sit confirmanda vel infirmanda in casu," submisse postulo responsum: "Sententiam esse confirmandam." Quibus adductis in utramque partem, propositum fuit diluendum.

[*Latin ed. p. 600*]

600 LUBLIN. A question arose concerning whether the judgment of the Metropolitan Curia of Varsaviensis, dated March 16, 1889, should be confirmed or rejected in a particular case. RESOLUTION The Holy General Congregation, after deliberation on January 2, 1894, decided to respond: "The judgment should be confirmed; but, considering the request of the woman's advocate, it is necessary to consult with the Most Holy Father regarding a dispensation from a marriage that is valid but not consummated, and to prevent the husband from entering into another marriage, without consulting the Holy Congregation." FROM WHICH WE GATHER:

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I. In a case of doubt regarding prior impotence, the strictness of the law should be observed for the sake of the validity of the marriage. II. Prior or subsequent impotence does not invalidate a marriage if it is temporary; and it is sufficient if intercourse is possible at the time of the marriage contract, or will be possible in the future, since the actual use of marriage is not essential to its essence. III. When proceeding through the way of grace, or through a dispensation to be granted by the Roman Pontiff, then, if the lack of consummation is proven, the marriage can be dissolved, even if there is doubt about the permanence of the impotence. IV. It is more tolerable and more honest, according to the discipline of the Church, to dissolve a marriage than to provide, under the name and law of marriage, an opportunity for incontinence, and a continuous occasion for sin. V. In this case, the lack of consummation of the marriage was legally established, both due to the integrity of the woman's body and due to the, at least relative, impotence of the man; and, despite the permanent judgment of Varsaviensis regarding the validity, the grace of a dispensation was granted.

[*Latin ed. p. 601*]

601 AQUIPENDIUM. REGISTRY OF ASSESSMENTS. January 20, 1894. Session 24, chapter 15, concerning assessments. SUMMARY OF FACTS. After the destruction of Castrum, in the year 1649, the cathedral church was transferred to Aquipendium, and its chapter was established, partly from the assets of the dissolved collegiate churches and other benefices, and from other pious foundations of the destroyed city. The revenues of this patrimony are divided into seven canonries, with the archdeacon as the head. However, since seven canons were deemed insufficient for the service of the church, Innocent X, the founder of the Aquipendium chapter in the year 1651, added six more canonries, and, over time, another, or fourteenth, was added. Thus, the chapter existed until the year 1873, when it was subjected to the laws of the Kingdom of Italy, which undermined ecclesiastical property. The Bull of Innocent X establishing the chapter, which had long been hidden, was brought to light, not entirely, but in a large part, by Victorinus Constantinus, the archdeacon of this church and the plaintiff in the case, from the archives of the cathedral church. The case in question concerns the aforementioned archdeacon and other canons, whose prebends were derived from the assets of the destroyed city of Castrum. The reason for the dispute is this: when Innocent X established seven prebends from the assets of the city of Castrum, he attributed 110 scudi to the archdeaconate, as befitting the dignity, while he attributed only 60 scudi to the other canonries. It is certain that, over time, some alteration was made to the Innocentian Bull. For among the canons holding prebends from the Mass of Castrum, the Holy See does not include the canon theologian, whom, indeed, it seems to have established and endowed with assets external to this Mass. However, in the year 1729, Bishop Barnabei lists the

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canon theologian in the Capitular Constitutions.

[*Latin ed. p. 602*]

602. AQUIPENDIEN. Among the canonical benefices of the Mass of Castrum, there was a change; but the time when this change occurred is unknown. Furthermore, the arrangement established by the Bull was not maintained for the daily distributions, but rather, for those who failed to fulfill their obligations, each one paid a certain sum of money, which was given to those who diligently served in the choir. But what is almost the core of this matter is that a change was also made in the amount of revenue assigned to the Archdeacon; for while the Pope had assigned 110 scudi to him, and 60 to others, it later became customary for the revenue of the common Mass to be divided into eight equal parts, two of which were given to the Archdeacon, and the remaining six were given to the other six canons. Moreover, each of these canons has his own distinct benefice, which he administers; while for the Mass of Castrum, the canons elect one of themselves as administrator. But when this division of benefices occurred, no record indicates. All of this is testified to by the Bishop in letters given to the Sacred Congregation, dated December 17, 1892, who also asserts that this division of revenues has been maintained since time immemorial. However, things were greatly disturbed by the laws of the Kingdom of Italy, which seized ecclesiastical property. First, the law of August 15, 1867, promulgated in the province of Rome on June 19, 1873, does not allow more than twelve canons in a cathedral church. Hence, when one of the seven canonical benefices of the Mass of Castrum became vacant due to the death of Canon John Rocchi, the treasury declared that benefice suppressed and appropriated its revenues to itself, thus reducing the number of benefices derived from the property of the city of Castrum to only six. Then, another benefice, external to these properties, was suppressed, and the number of canons was reduced to twelve. Afterwards, in accordance with the aforementioned law, all the immovable property of the Chapter was alienated, and in place of the revenues, the same number of promissory notes of public debt were given. But both the alienated immovable property and the remaining movable property were subjected to another reduction through the application of a thirty percent (30%) tax on all property of the Mass, including each individual benefice. However, this retention was subject to restitution due to a law of June 19.

[*Latin ed. p. 603*]

AQUIPENDIEN. June 6, 1873, which established that it should only be applied to that portion of the revenues of the canonry that exceeded 800 florins; and if the entire annual revenue exceeded 1,600 florins, no reduction of the tax should take place. The treasury, in implementing these provisions of the law, acted in such a way that the archidiaconal benefice, if

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it exceeded 1,600 florins, was subjected to the full tax of thirty percent; while the remaining five benefices from the Mass of Castres, which did not exceed this sum, were subjected to the tax only for that portion exceeding 800 florins. But it also made another difference in the manner of collecting this tax; for with regard to the five benefices, it ensured that the tax would burden the common fund and not each individual benefice; for it levied the tax from the proceeds of the alienation of real estate belonging to the Mass of Castres, retaining for itself the amount corresponding to the tax to be paid by the five individual canons, even in the transfer of promissory notes of the Public Debt. On the contrary, from the revenues of the archidiaconate, it directly collected the tax of thirty percent. Consequently, the common fund being thus diminished, the archdeacon indirectly paid this tax in proportion to the diminution, even for the remaining canons of the Mass of Castres. But the treasury not only diminished the common fund in this way, but the division of revenues derived from the alienation of movable property was made in a completely new manner, so that the archdeacon no longer had a benefice twice as large as the others, nor were the remaining five canons equal among themselves. Under these circumstances, Archdeacon Victor Constantinus considered that he could not accept this method of procedure, and therefore, on June 16, 1891, he appealed to the Sacred Congregation of the Council, requesting that, after removing any division of revenues made by the Italian Government, the ancient division be restored, which had been confirmed by immemorial custom, so that there would be seven equal parts among the canons of the Mass of Castres, of which two parts would belong to the archdeacon and the remaining five parts to the other canons, who, for this purpose, would contribute to the Mass.

[*Latin ed. p. 604*]

604 AQUIPENDIUM. They ought to restore that portion of the tax which was exacted from that same mass for the benefit of the five minor canons. They base their petition primarily on the decree of Innocent X, Founder of the Chapter, who, concerning all the goods of the ruined city of Castrum, which were to be paid to the Chapter, stated in the aforementioned Bull, "We reduce them to one mass." From this, the Archdeacon argues that the burdens imposed by the treasury on the mass ought to be borne by each of those who contribute to that mass in an equal proportion, and not in a varied manner, as the treasury itself has begun to do. Disputation Summary. First, the canons recount the principal phases of the Aquipendium Chapter; then, they address the merits of the matter, asserting that Innocent X did not create a mass from the goods of Castrum, in the common legal sense, but rather, from the accumulated goods, he assigned a portion of the revenues to each. Indeed, they say that the Pope awarded 110 scudi to the Archdeacon, and 60 to others. They confirm this observation with

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the words of Bishop Alexander Fidelis, who, when reporting to the Sacred Congregation in the year 1692 concerning the state of the chapter prebends with regard to distributions, and without making any distinction between the canons of the Castrum mass and those who certainly have distinct and separate prebends, stated: "In this cathedral church, there are no daily distributions, but the Archdeacon holds the first dignity and has a fixed income as stated in the founding Bulls, amounting to 110 scudi annually, the Archpriest to 100 scudi, the penitentiary and the theologian to eighty scudi each, and the other nine canons to sixty scudi each. And he imposed an equal tax of twelve scudi on all." They insist that not only did this Bishop interpret the intention of the Founder of the Castrum mass in this way in the time closest to the Chapter's founding, but that the canons of that very mass, at that time, demonstrated that same intention through their actions. To this purpose, they cite a certain chapter act before the *JURA CANONICORUM*.

[*Latin ed. p. 605*]

Regarding the matter of endowments: On the 4th of September, in the year 1657, the Bishop of Leti received a petition from the canons, in which they requested that he reduce the number of endowments assigned to the chapter to a single endowment. Therefore, the canons conclude, the endowment of Castrum should be equated with the endowments of others, which are certainly distinct: for this reason, they improperly use the term "Massae castrensis" (endowment of Castrum). Furthermore, some canons cite the affirmation of Angelus Maldacchini, presented at the Chapter meeting in the year 1684, concerning a certain census (income) of the endowment of Castrum, which he claims belongs to him "according to a division previously made." They also present similar testimonies from other canons who claim a certain census of the endowment of Castrum as their own. However, in order that this division of the endowment of Castrum, from the confession of the adversaries themselves, does not appear to pertain only to movable goods, the canons report facts confirming that this division was also carried out in immovable property. They state that this is testified to by a petition presented in the year 1728 to Bishop Barnabei by the canon of theology, Palombella, and by Ioannes Andreas Cosimelli, the administrator of the properties of Castrum. Since the administration of the endowment of Castrum is still common to all the endowments, the canons assert that this occurred because of the nature of these goods, which are very distant from the residence of the canons and are subject to the servitude of grazing rights, previously exercised by the Reverend Apostolic Chamber, and later by the noble family Capranica. From all of these things, they conclude that the petition of the archdeacon is unfounded, and that, in truth, the canons of Castrum possess and participate in the endowment of Castrum as a whole. Moreover, proceeding further, the canons do not hesitate to

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assert that, even if, but not conceded, the endowment of Castrum were truly common to all the endowments, nevertheless, if not the highest right, certainly equity demands that the division of revenues be maintained in the manner now introduced. They contend that this can be proven from the inconveniences that necessarily result if the division is restored to its previous state. Furthermore, they point out: what is the law concerning pensions, endowments?

[*Latin ed. p. 606*]

606. WATERING. Thus, are these matters determined by the governing authority, imposed by legitimate power? Not only would pensioners bear with great difficulty, or not at all, a proportional reduction in their pensions, but it must be believed that the pension was never imposed, if the amount to be provided were already reduced to the limits invoked by the archdeacon. Finally, they point out that, from the very principle of equity, the reduction proposed by the archdeacon should be rejected; since the archdeacon's provision, despite any fiscal burdens, is still rich and sufficient in every way, whereas the provisions of other canons, if, besides the fiscal burden, they also suffer from the archdeacon reducing them, would become utterly insufficient, considering the number of canons and the time involved. After these observations regarding equity, the canons again submit their demands to the law, noting that the archdeacon's petition also contradicts the founding charter, which stipulates that the archdeacon should receive not a double portion, but only a greater one; for it grants him 110 shields, while others receive 60. This practice, they say, was certainly maintained until the year 1693, as is evident from the words of Bishop Alexander Fidelis. Finally, the canons conclude their objections, noting that the Holy See itself, in granting and taxing privileges, does not recognize in the archdeacon the revenues of the provisions, which he appropriates to himself. RIGHTS OF THE ARCHDEACON. In response to these allegations of the canons, the archdeacon has now replied through a pamphlet, printed and published, in which he directly presents the reasons for his claim and refutes the arguments of his opponents. Explaining the modern conditions of the chapter's revenues, he cites that part of the Innocentian Bull that refers to the constitution of the provisions of Castrum, and especially notes the Pope's words: "We dedicate it to one Mass." He proves that the property of Castrum is called a Mass in order to exclude the division of the provisions from the statutes of the chapter, drawn up by Bishop Barnabei in the year 1729 and approved by the entire chapter, which contain the following: "Frequently, among the aforementioned canons, the archdeacon and the theologian have a special Mass..."

[*Latin ed. p. 607*]

REGARDING EQUIVALENT ENDOWMENTS. The document states

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that Castrum is so called because it is endowed with goods from the canonical institutions and other benefices of Castrum. It confesses ignorance of the time and decree by which the archdeaconry received a double endowment, but asserts that this right is supported by an unforgettable custom. Therefore, the archdeacon says, either this legitimate division of revenues must be recognized, preserved by an unforgettable custom, or it must be embraced and introduced by the governing authority. He notes, however, that even to pious lay princes, this is prohibited by chapter "Concerning Churches," and by chapter "Of the Church of Saint Mary," as Innocent III decrees: "To laymen, no power is attributed over churches and ecclesiastical persons, but rather the necessity of obedience, not the authority to command; and if anything is established by them of their own accord which concerns the advantage and favor of the churches, it shall have no validity." The actor, however, points out that, contrary to what the canons assert, the word "Massa" in the Innocentian constitution does not oppose the division of endowments, and that this interpretation is gratuitous, indeed contrary to the true meaning of the words. The same actor insists that this interpretation was not confirmed by Bishop Alexander Fidelius in his rescript, where he enumerated the individual endowments of the canons and imposed the same tax on all for the purpose of establishing daily distributions; for then the Bishop had the purpose not of defining the origin and nature of the endowments, but only of subjecting all the endowed indiscriminately to the tax for the purpose of having daily distributions. Furthermore, examining the capitular act presented by the opponents, which equates the "Massa" or endowment of Castrum with other endowments, clearly distinct from each other, the archdeacon concludes that this older affirmation of one of the canons does not help the modern canons, because they could not have improperly called the "Massa," which is properly a "Massa" by established law, and if they called it improperly, they spoke ignorantly and without knowledge.

[*Latin ed. p. 608*]

608. Concerning the objections raised by the adversaries to demonstrate the validity of the distinction regarding the granting of "benefits from the former division," he notes that the conclusion of the canons should be that some division of the goods of Castrum had indeed taken place, and that this was true, but that it does not necessarily follow that all the goods of Castrum were completely divided, so that, besides the distinct benefit, there would not also be a common fund. Regarding the second objection of the opponents, which seems most concerned with equity, and which appears to demand a present division of revenues rather than an older one, the adversary replies that there is no place for equity in matters that conflict with justice, and in this case, with a distribution of revenues that was not made lawfully, but by violence. Because the canons also objected to incon-

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veniences arising from the succession of benefits, if certain revenues are granted by the chapter, and others by the treasury, the archdeacon recalls the express intention of the government itself, namely, that it does not wish to interfere with the internal constitution of the chapters, and therefore the treasury will accept and ratify the division made by the chapters, according to the effects of the law. But, he insists, even if the treasury were unwilling to accept, what then? The canons are bound to observe justice and the constitutions of the chapters, and they can easily and legitimately settle the matter among themselves. Regarding the pensions that were imposed on the benefits according to the new division, he notes that, in this case, the legitimate constitution of the benefits should first be observed, and then, concerning other issues that may arise, provision will be made according to the laws. Finally, turning to the last contradictory objection, he notes that it is not enough to invoke the Bull of Institution that does not grant a benefit a truly double portion in order to destroy the right of the archdeacon; but, given the change that followed from time immemorial, it is necessary to challenge and destroy, or to demonstrate the illegitimacy of, the existence of this ancient custom. But, from several documents cited, the archdeacon proves that the canons of Castrum...

[*Latin ed. p. 609*]

The matter has been repeatedly and solemnly examined, and indeed confirmed. The question of fact is sufficiently established by the documents presented by the plaintiff; and, in order to explain the legal question, the Resolutions of the Sacred Congregation of the Council, issued in Teano, are most worthy of consideration. These are the Resolutions concerning the adjudication of revenues, dated June 8, 1889, and in Parma (-Fontevivo), dated June 26, 1886, and in Cuneo, concerning the adjudication of revenues, dated May 30, 1891; which Resolutions the archdeacon invokes most earnestly in his favor (1). In Teano, the case now under consideration was identical. For, of the 26 prebends which constituted that chapter, 12 were reduced, and furthermore, all the remaining goods were subjected to a tax of thirty per cent; and then, after a partial restitution of the proceeds of this tax, not in the due proportion of the tax levied, but with regard to the poorer prebends, rather diminishing the common Mass than the individual prebends, a dispute arose between eight poorer canons, who approved and defended the distribution of revenues made by the government, and four others who disapproved of the same division, considering it to undermine the internal constitution of the chapter and to injure legitimate rights. The following questions were presented to the Sacred Congregation of the Council: I. Whether the portion which the government had previously withdrawn due to the 30% tax should be ceded in favor of all the canons, or rather, only of eight, in this case. II. Whether the fruits of the same portion, accumulated from the year 1873 to the year 1886, which the

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government recently restituted, should be divided among all, or rather, only among eight canons, in this case. The Sacred Congregation decided to respond as follows: To I, affirmatively to the first part, negatively to the second. To II, affirmatively to the first part, in proportion to what is due to each, negatively to the second. - In a similar case in Parma, the Sacred Congregation granted the canons the right to retain the new revenues (1).

(1) *Ecclesia Vol. XXII, 237. Parma, Distributionum; Vol. Acta, Tom. XXVI. Teano, adiudicationis redituum; Vol. XIX, XXIV, 150. Adjudicationis redituum. C.C.O. 39, 252.*

[*Latin ed. p. 610*]

610 Regarding the distribution of funds from the treasury, it is stated: "For the sake of example, according to the requests, let the words be spoken with the Most Holy." In Cuneo, for a similar case, the following question was proposed: "Whether and how the sum assigned from the treasury for the partial restoration of the prebends of Ghisolfi and Delia Chiesa should be divided between the provision for those same prebends and the common distribution for Mass in that case." The Sacred Congregation, on May 30, 1891, decided to respond: "Affirmatively, for the rota of damages, then for the provision, already for Mass, and furthermore." With these considerations from both sides, the following question was to be clarified: "Whether the revenues of the Mass of Castrum, 'arising from the conversion of real estate, should be divided in the same manner as the revenues of those properties were divided before the year 1873; or, according to the assignment made by the government in the calculation of the thirty per cent tax in that case." RESOLUTION. The Sacred Congregation, after deliberation on January 20, 1894, decided to respond: "Affirmatively to the first part; negatively to the second." CONCERNING THE ALLOCATION OF REVENUES. January 20, 1894. Session 24, Chapter 18, Regarding reforms. In the diocese of Ugentina, in the collegiate church of the town of Alessano, due to the death of the canon who was the pastor in 1884, the local Ordinary, according to the prescriptions of the canons, temporarily entrusted the care of souls to Achilles Alforano, a canon of the same collegiate church. Because the prebends had been suppressed by the Italian government, only the prebend of the canon pastor remained, which, according to a certain...

COMPENDIUM OF THE MATTER.

[*Latin ed. p. 611*]

At the urgent meeting of the Chapter held in the year 1870, funds were collected from the revenues of a certain benefice, the title of Saint Michael the Archangel, and from a portion of the chapter mass. The total revenues were calculated to amount to 593 livres. Upon the vacancy of this benefice, the Royal sub-economus, as was customary, immediately

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claimed these revenues for himself, allocating 340 livres to the curate's economus. However, when, after deducting expenses, no profit remained for the curate's economus, the sub-economus proposed to the curate's economus that he assume the administration of the canonical benefice, on the condition that he would pay the same expenses, and that he would receive whatever remained afterward. The economus, with the approval of the Ordinary, agreed to this. However, the canons of the collegiate church, seeing their colleague the canon enjoying the administration of the canonical benefice, began to insist that a portion of the revenues be returned to them, based on three grounds: 1. Due to the provisions of the Concordat of 1818, concluded between the Holy See and the King of Naples, which stipulated that the curate's economus should only receive two-fifths of the revenues of the curatial benefice, while the remaining portion should go to the chapter; 2. Due to the nature of the chapter mass, which, upon the vacancy of any benefice, is, as a matter of right, transferred to the other canons, without diminution. Therefore, they demanded the entire revenue of the chapter mass, as we have said, in addition to the revenue of the curatial benefice; 3. Finally, they argued that, by reason of distributions, or as a subsidiary means, the canons received a portion of the fruits of the benefice, reasoning thus: Granted, but not conceded, that the curate's economus is not obliged to return other revenues, how can he refuse to cede that portion of the fruits corresponding to the distributions, which he could not obtain from the administration of the canonical benefice? For, since he himself is a canon, owing to the administration of another benefice, he fulfills his duty by serving in the choir, but by the same action, he cannot also fulfill his duty for the canonical curate. Therefore, the canons concluded, he should at least return the non-lucrative distributions. This dispute, which arose, was examined three times by the Vicar General of the Ugentine Diocese, and he always responded, although through an extrajudicial means, in favor of the economus, who denied that he owed anything.

[*Latin ed. p. 612*]

612 Ugentina, concerning a chapter. Of the seven canons of the collegiate church, three had resigned, while the other four remained; in order to resolve this discord, on November 12, 1888, the matter was brought before this Holy Congregation by the Vicar General, because at that time the church of Ugentina was governed by an Apostolic Administrator, having been deprived of its pastor. In a written report, the Vicar General noted that he had been unable to find an economicus [curate], who would accept the position with the appropriate reduction in salary imposed by the chapter. This Holy Congregation decided to respond on December 2, 1888, stating, "For the present, there is no basis for providing [a curate]." In 1891, on July 12, the curacy of the collegiate church of the town of Alessano received

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its titular, whereupon the other canons, who were opposed, and who had already seen the time of the economicus's tenure of the curacy expire, insisted again that the former economicus should return the revenues of the curacy, which he had repeatedly received, to the other canons. The Bishop, having seen the matter definitively settled once and again by the Vicar, referred the controversy to this Sacred Congregation, as evidenced by letters dated December 1, 1892, and by other letters dated January 13, 1893, which attest that the parties had no other allegations to present, beyond those already offered.

Synopsis of the Dispute. RIGHTS OF THE CANONS. These parties attempt to support their petition:

1. By citing the Concordat, referring to these words in part 3, page 243: "That the annual allowance to the economicus of a curacy should be two-fifths of the revenue of the said benefice or prebend."

2. To reinstate the Chapter Mass, they cite the decree of the Council of Trent, which established it in favor of those actively participating in the recitation of the Divine Office in the choir. From this, they argue that the economicus, by reason of the curacy, could not claim a portion of the Chapter Mass for himself, since he should be present elsewhere in the choir for his canonical benefice. Otherwise, they contend, it would be absurd.

[*Latin ed. p. 613*]

UGENTINA 613, that he himself, not the titular holder of the benefice, free from the burdens that the latter bears, would be in a better condition than the titular himself, who must feel every burden of care and presence in the choir; but he who should feel both the benefit and the burden. They also recall the example of the "diocesan administration" established by the Concordat of 1818, which, assuming the administration of vacant benefices, left the entire Mass to the remaining canons. Indeed, they also mention a certain judgment rendered by the civil court of the Italian government in a case previously brought between the Demanio and the Chapter of Firman, and later between the same Demanio and the Chapter of Calaritanum, in which the judgment held that, according to the most learned principles of law, the Mass to be distributed among the present members is that of the Chapter. 3. Therefore, they say, no law, even with other reasons, allows the curate-economus to be excused from the obligation of restoring the daily distributions. To the curate-economus, who objects to the convention, regarding the "congrua," initiated with the sub-economus, approved and confirmed not once, but repeatedly, by the Vicar General, they respond that the suppression by the Italian government is mere violence, and that the benefice of the canonical curate, now being under the free administration of the curate-economus, should not be considered subject to the conditions or agreements made by the sub-economus, but only to the canon law before which the entire collegiate church stands. As for the decisions of the Vicar

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General, they observe, firstly, that these are entirely extrajudicial; secondly, that they were obtained by deceit and fraud by the same Vicar, at a time when the rights of the curate-economus were weakened. Regarding the reasons derived from the Concordat of the year 1818, they note that the conditions of the curate's benefice have in fact been changed, so that he now has simple administration of it, for which he must render a strict account to the sub-economus, according to the laws currently in force, as is evident from the convention of June 12, 1885. Then he adds, "but would that the superfluous fruits were present..."

[*Latin ed. p. 614*]

614 Concerning the Obligation of Providing [Support]! However, these fruits cannot in any way be obtained, since, after deducting the burdens and expenses of the curacy, barely 237 livres remain, as testified by the Vicar General in a report for the year 1888, presented to the Sacred Congregation. Furthermore, if there were any surplus fruits, the sub-economus would have retained the administration of the curacy. More directly, the economus of the curacy responds to the question raised in the Concordat of 1818, noting that the curacy of Saint Michael the Archangel has always been entirely separate from the capitular fund, as testified by the act of constitution of the curacy dated April 22, 1870. However, if the canons have added any part of the capitular fund to the aforementioned curacy, they have openly pledged, the same economus observes, that this portion is necessary for the proper fulfillment of the parochial office; and what, therefore, do the canons demand? And in response to the canons' petition concerning a portion of the capitular fund, the economus confirms that the revenues of the vacant curacy have been paid to him for the proper support of the economus of the curacy. The former economus avoids the issue raised by the Chapter, at least in a subsidiary manner, regarding unprofitable distributions; for it is absurd, he observes, to speak of lost or gained distributions by someone who is not the titular of the benefice, but merely an administrator, not a canon of the Chapter, but the economus of the curacy or a Vicar. Finally, against the canons, the same Vicar General insists on three decisions of the Vicar General; these judgments, although extrajudicial, are no less valid because of the decretorial silence imposed on the canons who seek to obtain something from a fellow canon who is the economus. Finally, it has been officially noted that in these decrees, there is nothing to be reprehended regarding their form; nor from their tenor; nor is there any evidence in the documents that these decrees were obtained through fraud or deceit. The reasons for the decisions are not present, but they are easily understood. For the matter at hand is the assignment of...

[*Latin ed. p. 615*]

Concerning the fitting stipend (oeconomia) for a curate, which is es-

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tablished from the revenues of the curacy, held in administration by the aforementioned economist. Therefore, a provision was made in accordance with the decree of the Council of Trent, Session 24, Chapter 18, which states: "The Bishop ought immediately, upon knowledge of a vacancy in a church, if it be necessary, to appoint a suitable vicar in that place, assigning him a portion of the fruits of the church, in a manner suitable to his judgment, who shall sustain the burdens of the church until a rector is provided." Saint Pius V, in his Constitution *Ad exequenda*, wished to limit the judgment of the Ordinary with certain boundaries, decreeing that the fitting stipend ought to be neither less than 50 scu. tutis, nor exceed 100 scu. tutis. However, since in practice this rule was subject to many controversies and doubts, Benedict XIV, in his celebrated Constitution *Cum seniper oblatas*, adhering more closely to the footsteps of the Council of Trent, left the fitting stipend for vicars to the prudent judgment of the Bishops, according to the circumstances of the place and time, stipulating that even the rights of the Apostolic Camera should yield in favor of establishing a legitimate stipend. This Holy Congregation, on July 31, 1693, in the case of Cosentina, and on September 7, 1699, in the case of Burgos S. Sepulchri, decreed that the fitting stipend assigned to a vicar by the authority or consent of the Ordinary, cannot be diminished by him to whom only habitual care of souls pertains. With the foregoing premises established, the doubt concerning whether and what portion of the revenues the canons have the right to recover from the curate, in the case, was to be resolved. The Sacred Congregation of the Council, after deliberation on January 20, 1891, judged it proper to respond: "No, and furthermore."

[*Latin ed. p. 616*]

616 FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS: Doubts concerning the interpretation of the decree *Auctis admodum* (1). On February 9, 1894, the Most Eminent Cardinal Richard, Archbishop of Paris, presented the following doubts to the Holy Congregation of Bishops and Regular Canons for resolution (2). In this Archdiocese, where many Congregations of Priests with simple vows are found, two principal doubts have arisen concerning the interpretation of the decree *Auctis* of November 4, 1892: Firstly, whether, after this decree, it is permissible for these Congregations, without a special Indult, to promote their students to the orders, as if they were their own subjects, by granting them dismissal letters in the manner of Regular Ordinaries; a matter concerning which there is much controversy. Some say that this is permissible for the aforementioned Congregations for the following two reasons: I. In the aforementioned decree *Auctis*, it is clearly stated: "Thus, the Superiors of these Institutes (of simple vows) cannot, in the future, grant dismissal letters for the Holy Orders... except to those students who have indeed made simple vows, but have also made perpetual vows, or who have re-

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mained for at least three years in simple vows, in those Institutes which, after three years, defer perpetual profession." Therefore, the Superiors of these Institutes can grant dismissal letters, and indeed without an Indult (concerning which, there is little doubt).

(1) Reported in Vol. XXV, 312.

(2) Since various interpretations have arisen concerning the decree *Auctis admodum*, and also concerning certain declarations of the same decree, allegedly made orally by the Holy Congregation itself, regarding the rights of religious Institutes, so that practical disagreements might not agitate minds, these doubts were presented to the same Holy Congregation. After the decree *Auctis* and by virtue of the same, a) Institutes of simple vows cannot, without a special Indult, grant dismissal letters to their students for the purpose of receiving orders; b) nor, a fortiori, can these Institutes do so with merely episcopal approval; c) Institutes of simple vows cannot, without a special Indult, promote their students to the Sacred Order through the title of common table or otherwise.

Reverend Father J. Simler, General Moderator of the Society of Mary of Paris, had proposed two doubts to be resolved by the Holy Congregation of Bishops and Regular Canons. Since the Most Reverend Archbishop of Paris had been consulted for information and opinion on this matter, he added a third doubt; to all of which the Holy Congregation of Bishops and Regular Canons gave a response.

[*Latin ed. p. 617*]

DOUBTS, ETC. 617. Indeed, what is said to those students who either perpetually make vows, or who make vows for three years, etc.? 2°. By this Decree, "Auctis," a bond is created in Institutes of simple vows, an unbreakable bond between the Institute and the religious, just as there exists an unbreakable bond between the Order and the religious who has made profession, provided that, concerning the dismissal of students, the same causes and formalities are prescribed in Institutes of simple vows and in Regular Orders, and consequently, in either case, the religious is subject only to his Congregation, preventing him from being subject to any particular Bishop. Others, however, contend that a special Indult is required, so that these Congregations may promote their students to be their own subjects, granting them, indeed, dismissal letters for entrance into religious orders. 1°. Before the Decree "Auctis," it was certainly the case that Institutes of simple vows could not grant dismissal letters to their students without a special Indult; for indeed, the privilege of granting dismissal letters is exclusively the property of Regular Orders, as is stated in numerous documents and canons, in which that privilege is explained; hence, the aforementioned Institutes would have to request and obtain from the Holy See a special Indult for granting dismissal letters to their students for entrance into religious orders; which Indult has, in fact, been granted

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to many such Institutes, either absolutely, or with a restriction, either as to time, or as to the number of cases, or as to both. However, it is not easily admitted that the Sacred Congregation of Bishops and Regulars, by the Decree "Auctis," introduced such a sudden and tacit change in this matter, and elevated Institutes of simple vows to the status of Regular Orders, thereby enabling them to have their own subjects, to whom they can freely and absolutely grant letters of dismissal for entrance into religious orders; or even more, that this new privilege contains a derogation from the common law, namely, from the Bull "Speculatores" and from the rights of the Bishops themselves, who are thus deprived of their subjects; for the Sacred Congregations do not usually introduce such a derogation from the common law, especially tacitly and without any mention of the rights that are being derogated from. 2°. The Decree "Auctis" does not distinguish between these Institutes of simple vows, as is clear from its wording: and if the former interpretation is admitted, it would have to be said that all such Institutes possess the right to grant dismissal letters to their students, that is, both Institutes established by the Holy See, and those...

[*Latin ed. p. 618*]

618 DUBIA ETC. already approved, and then those questions which are only of minor importance. But let us praise, indeed, even those which have received only the approval of Bishops. However, it does not seem unusual that Institutes, established and endowed with authority only by the Bishop, should, with respect to the conferring of degrees, have their own subjects, whom they freely promote to all orders, disregarding the Constitution "Speculatores" and the rights of the Bishops themselves. Therefore, according to the proponents of this second interpretation, the meaning of the words of the decree "Auctis," as cited by the aforementioned proponents of the other opinion, is this: "So that the Superiors of these Institutes, who have obtained from the Holy See a special Indult to grant dismissal letters to their subjects, cannot, in the future, grant these dismissal letters except to students who have made perpetual vows for the sacred Orders, etc.," and this meaning seems to them to be the most genuine and probable. A related doubt is similar to the preceding one: Whether, after the decree "Auctis," Institutes of simple vows can freely, without a special Indult, promote their students to the Orders, under the title of "mensa communis" or some similar title. Regarding this doubt, as well as the previous one, there is a great deal of controversy in this Archdiocese. Some, the very same who assert that these Institutes can grant dismissal letters to their students without a special Indult, contend that these Institutes no longer require a special Indult to promote their students to the Sacred Order under the title of "mensa communis" for two reasons. The decree "Auctis" states: "So that the Superlos of these Institutes cannot, in the future... promote students to the sacred Orders under the title of "mensa communis" or

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"mission," except only those students who have indeed made simple vows, but perpetual vows... or anyone at all," etc. Therefore, the Superiors of these Institutes can freely promote their students who have professed perpetual vows to the Orders under the title of "mensa communis," without any mention whatsoever of a special Indult; 2°. Just as in the regular Orders, the indissoluble bond created between the Order and the religious professing it, secures to this religious his proper and perpetual sustenance, and thus prepares the title of poverty; so now, in the Institutes of simple vows, the indissoluble bond which is created (by virtue of the decree "Auctis") between the Institute and the student, secures to this student his proper and perpetual sustenance, and thus should prepare the title of "mensa communis," (although an Indult is not required, it seems).

[*Latin ed. p. 619*]

DOUBT, ETC. 619. Utterly useless. Some maintain that a special Indult is required for this, so that a cleric, living in a Congregation of simple vows, may be promoted to the sacred order with the title of "mensa communis" (common table). The arguments are: 1. The title of "mensa communis" is an ordinary title and contrary to a simple provision, and therefore requires a special Indult, as is stated in many canonical documents, e.g., in the Instruction of the Holy Congregation for the Propagation of the Faith, dated April 27, 1871, in which the aforementioned Holy Congregation explicitly and formally teaches this. 2. In the Apostolic Bull "De Superioribus," § 4, it is clearly stated that the collation of the sacred order incurs, by its very nature, a suspension, except in the case of a legitimate privilege, and that, without a title of benefice or patrimony, the sacred order cannot be conferred upon a cleric living in any Congregation, unless he has made solemn vows, or even upon a religious who has not yet made vows. Moreover, it is unbelievable that the Holy Congregation of Bishops and Regular Canons, through the Decree "Auctis," has derogated from this Pontifical Bull, and that, too, tacitly and without making any mention of it. 3. It is surprising that the authors of this opinion see their interpretation questioned by some, when this very Decree "Auctis," upon which they rely, expressly reaffirms (Firmis Remanentibus) the Constitution of Pope Pius V, dated October 14, 1568, in which this Pope extends the Decree of the Council of Trent, Session 21, concerning the necessity of a title, benefice, or patrimony, to all clerics living in Congregations of simple vows, and thus expressly prohibits the ordination of any cleric without another title; this is precisely what is stated in the aforementioned article of the Bull "Apostolicae Sedis." Therefore, having considered these points from both sides, the Most Eminent Orator proposes the following questions to be resolved by the Most Eminent Fathers: 1. Whether, now after the Decree "Auctis," Institutes of simple vows can freely grant their students letters of dismissal for ordination, without a special Indult. 2. To the extent that the answer is affirmative, whether this

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decision should be restricted to Institutes of simple vows approved by the Holy See, or whether it should also apply to Institutes of simple vows that are only endowed with the authority and approval of a bishop. 3. Whether, now after the Decree "Auctis," Institutes of simple vows can freely promote their students to the sacred order with the title of "mensa communis" or another similar title, without a special Indult.

[*Latin ed. p. 620*]

DOUBTS, ETC. In the Congregation, on February 9, 1894, after mature deliberation on all the proposed doubts, the Sacred Congregation decided to respond as follows: To question 1: Negatively. To question 2: Provision is made in the first. To question 3: Negatively. Given in Rome, from the Secretariat of the Sacred Congregation, by the Bishops and Regulars, on February 12, 1894. [Signed] I. Card. VERGA, Prefect. A. TROMBETTA, Pro-Secretary. PERUSINA, CONGREGATION REGARDING THE DISTRIBUTION OF PAROCHIAL INCOME. February 23, 1894. SUMMARY OF THE CASE. For the understanding of the matter, it must be stated that in the diocesan synod of Perugia, certain rules were established concerning the distribution of the annual revenues of parochial benefices during the period of vacancy, between the predecessor and the successor, and also between the predecessor's heirs and the successor, in order to prevent disputes. With this premise, in the year 1871, the Reverend Father Anthony Briganti, parish priest of the place of Torgiano in said diocese, was promoted to the Episcopal See in the ancient city of Rome. In the parish, he had a successor, the Reverend Father Joseph Boccali, who had already passed away in the year 1891. The nephew and heir of this Boccali, Augustus Boccali, in the year 1892, presented a petition to the Sacred Congregation, stating that the Reverend Bishop Briganti owed him, as heir, the sum of 577.55, in order to settle the proper accounts of said parish, revenues which the deceased Boccali had earned through laborious work, either through letters or through intermediaries, not excluding the brother-in-law of the Bishop, the priest Angelo Briganti, and that a note of the settlement, in the aforementioned sum, had been transmitted by the Chancellor of the Curia of Perugia to Bishop Briganti. However, from the aforementioned...

[*Latin ed. p. 621*]

PERUGIA: He argued that he owed nothing, either because of the creditor Joseph Boccali's continuous silence for almost 20 years, or because of the improvements and increase in revenue made in the parish, which he left when promoted to the See of Urbisvetana. By order of the Most Holy, a delegate was sent for information and a vote, after hearing those with an interest, to the Archbishop of Perugia, who, on August 8 of the previous year, together with the synodal regulations pertaining to the matter, sent the deductions from both sides, to which further deductions were added by

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the Bishop Briganti on October 1 of that year; the resolution of the matter was also referred by order of the Most Holy to the plenary assembly of the aforementioned Congregation. The Synodal discussion, following the liquidation, seems to demonstrate that the proper dues were paid, based on two testimonies: namely, those of Daniel Lucarelli, the tenant of the parish property of Torgiani, at the time when he left, and of the priest Peter Cocchi, who succeeded him as the parish economist; for these two, in agreement, state that he delivered the proper dues in grain, wine, and oil at the parish storehouses. It is clear, according to the Bishop, that these witnesses deserve full credit, because they testify from certain knowledge, based on what they have seen and heard. Regarding the letter that he himself wrote on July 30, 1873, to Joseph Boccali, in which he asserted that he would have paid the proper dues, whenever he had been condemned by the Perugia court to pay them, the Bishop observes that, according to the synod, in the case where the parish property is subject to lease during the vacancy, the succeeding parish priest has the right to three kinds of proper dues: 1. On the goods and revenues of the parish; 2. On the tithes or fortieths of the land; 3. And the third consists of some compensation, a favor to the succeeding parish priest, based on what he finds of the parish property that is leased. The Bishop then states that he satisfied the first two kinds of proper dues, as mentioned above, and that the testimonies categorically FAVOR THE BISHOP.

[*Latin ed. p. 622*]

622. PERUSINA affirms: Hence, a letter is presented pertaining to the third installment of dues, which the Prelate vehemently defends, claiming he is not obligated to pay. 1. Because he himself had no dues received from his predecessor, Peter Cocchi, who managed the finances, and therefore he was obliged to provide for his own sustenance from his own resources for various months. 2. Because the dues left by him were in such a quantity that they would suffice for the honest sustenance of his successor, hence the synodal regulation concerning the provision for the successor, so that he might live, was lacking. 3. Because he notably increased the income of the parish through extraordinary improvements and better arrangements. Finally, the Bishop noted that he had left the parish priest, Boccali, a garden with its appurtenances, which rightfully belonged to him, so that from its income, a lamp might continuously shine before the altar of the Immaculate Virgin, and Mass might be celebrated daily. The income from this property can be estimated at approximately 100 livres per year; while the amount required to fulfill this obligation is up to 50 livres. The parish priest, Boccali, received the remaining livres annually. If the Bishop were to collect the total amount, as he was entitled to do, it would greatly exceed the sum requested by the heir of Boccali; therefore, the appeal of Boccali should be rejected.

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IN FAVOR OF THE HEIR OF BOCCALI. On the other hand, the heir of Boccali, noting that the contradictions and inconsistencies in the opponent's arguments, which at times deny and at other times are prepared to acknowledge the payment of dues, constitute a strong indication that he is indeed obligated to make those payments, proceeds to demonstrate his rights. In his pleadings to the parish priest, Boccali, dated July 30, 1873, the Bishop, Briganti, openly and repeatedly admits that he left dues to Torgiani, as he had not done when leaving the parish of Montenero, because he maintained that he was not obligated to do so. After this candid confession of the debtor, the value of the testimonies presented by the opponent is easily understood by everyone. But, extending them individually, Boccali first rejects the testimony of the tenant, Lucarelli, as suspect, because of his connection with the agent of the Bishop, Briganti, and with

[*Latin ed. p. 623*]

PERUSINA 623: This matter is also connected by necessity; which is further confirmed by the fact that in the year 1873, when the parish priest Boccali presented accounts, this testimony was not invoked. Furthermore, the testimony of the chaplain Cocchi should be rejected: for he states that he received something from Bishop Briganti for two months and a half, during which time he performed the duties of the economist, but he remains silent regarding the payments made to the parish priest Boccali. From these and other matters, the heir of Boccali argues that Bishop Briganti is obligated to fulfill his debt. The following points are noted from the documents: 1. The right of the successor to receive the dues from his predecessor, according to the decree of the Synod of Perugia, is, as is the case with the three types of dues mentioned, beyond dispute. 2. It can be certain that he has fulfilled the payment of the first type of dues, because, since the property of the parish remained located during the time of his absence, the responsibilities for the lease devolved upon the economist of Regium. As for the second type, or tithes, although the chaplain Cocchi states that he received what was necessary in grain, wine, and oil for his sustenance for two months and a half, he nevertheless remains silent regarding the quantity received and returned. 3. In the Synod of Perugia, nothing was decided regarding the account presented by Bishop Briganti for his exemption from the payment of the third type of dues; furthermore, the records lack documents that would prove an agreement regarding the use of the garden and its appurtenances, along with the imposition of burdens, as mentioned above, between Bishop Briganti and the parish priest Boccali. Having briefly related these matters, the following questions were proposed: And how is the Bishop held to the distribution of the parochial dues in this case? The Most Holy Congregation of Bishops and Regular Canons, after mature deliberation, on the 21st of February, 1891, gave the following response: It affirms that, in all

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fairness, the Bishop is obligated to provide a just compensation.

[*Latin ed. p. 624*]

624. DECREE OF SAINT DEODATUS, dated March 9, 1894. SUMMARY OF THE MATTER. Following the example of the Bishop of Poitiers, who, due to political circumstances, had previously suppressed the Order of the Regular Canons of the Lateran in France, the Bishop of Saint Deodatus invited the aforementioned Order into his diocese, and granted them the parish church of Saint Appolinaris in Mattaincourt, where the relics of Blessed Peter Fourier, Founder of the Order and Apostle of Lorraine, were venerated. In order that all matters might proceed correctly between the aforementioned Bishop and the Abbot General of the Order in the year 1878, a convention was initiated, and confirmed by the Congregation of Bishops and Regulars by decree of December 14 of the same year. By virtue of this convention, the new house and parish of Saint Appolinaris were endowed with the title of the Regular Canons: the religious had the charge of the parish, the care of the pilgrims who came to the tomb of Blessed Peter, and the use of the parish buildings with their appurtenances, as the parish priests had previously possessed. To the parish priest of Fladol, however, as a senior and emeritus priest, his title and emoluments were preserved, while the spiritual administration of the parish was transferred to the Order. After the death of this parish priest, and following the infamous decrees against religious congregations in France in the year 1880, the Bishop, fearing that a regular parish priest might not be approved by the Government, and with the consent of the Order, proposed, for that occasion only, that a secular priest be presented to the Government as the parish priest, while, in the ecclesiastical forum, the true parish priest would remain a religious person appointed by the Order, and another would serve as a simple Vicar. However, this expedient had, in practice, sad effects due to the division of opinions within the parish. A new Bishop subsequently succeeded, who, in order to resolve the difficulties that had arisen, requested that the Order allow him, in the future, to appoint a secular priest to the aforementioned parish, with all its rights.

[*Latin ed. p. 625*]

To Saint Deodatus, [we] grant the rights and the title of parish priest, reserving for the religious only the house of V Aamonerie, or the spiritual direction of the Monastery of our Congregation. This proposition, as well as another, consisting of four articles, which infringed upon acquired rights, was entirely rejected by the Order. Meanwhile, unexpectedly, the parish church of Saint Apri in Mattaincourt was closed by order of the local Syndic, in French, the *Maire*, and a public appeal was even made in the hall of the French Senate regarding this matter. At that time, the Bishop, seizing the opportunity from the aforementioned inconveniences, first ap-

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pointed an administrator, and then, by decree of June 18, 1891, appointed the priest Marchai as parish priest, thereby forcing the Order to relinquish the administration of the parish. Against this decree, the Superior of the Order immediately appealed to the Holy Congregation, requesting its revocation. After hearing this appeal, and after the allegations of both parties, the decision of the case was referred to the supreme judgment of the Most Eminent and Reverend Fathers. Prior attempts at a friendly settlement between the Order and the Bishop Sonnois, and then his successor Faucautt, proved futile.

A Synopsis of the Dispute.

The Bishop, in order to uphold his decree, argues that the aforementioned convention has no validity, either legally or in the circumstances of the case. Regarding the first point, he argues that it is invalid because it was secretly concluded and contrary to the prescriptions of the laws: indeed, he proves that the Chapter of the Cathedral Church was not heard regarding it, as evidenced by the testimony of the Chapter itself; nor were those who had an interest heard, such as the Municipality of Mattaincourt, to whom the property of the church and the parish buildings belong, and the council of buildings, to whom the use of things also pertains, according to French laws, as it results from the documents presented. He further argues that this defect could not have been remedied by the decree of the Holy Congregation, because the Holy Congregation completely ignored these defects.

As for the second point, the Bishop continues...

[*Latin ed. p. 626*]

626 Saint Deodatus concedes that the agreement was valid from the beginning; nevertheless, at present, it ought entirely to be declared null and void, since in the third article of the agreement itself, the case of *vis maior* is stipulated as a resolutive condition, and in fact, such circumstances are present which render the position of the Canons Regular of the Lateran Palace in the parish of Mattaincourt juridically and morally impossible: juridically, because their position is contrary to the law of Galliae of April 8, 1802, and the decree of December 30, 1809, which prohibit the nomination of a regular priest in parishes; morally, because after the most recent events, with public authorities opposing the Regulars, not excluding the Government itself, and with the minds of the parishioners exasperated, it could certainly not be understood that the restoration of the Regulars to the administration of the parish. Considering these and other things, the Bishop concludes that the decree ought to be maintained in its validity, and that the priest of Marchai ought to remain in possession of the parish, provided that the aforementioned circumstances endure.

WHAT IS OPPOSED TO THE BISHOP. On the other hand, it was observed that the objections raised by the Bishop concerning the validity of

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the agreement were not based on solid grounds. Indeed, even admitting that it was lacking in some legal forms, it cannot be doubted that this defect was remedied by the Decree of the Holy Congregation; because this decree was issued from certain knowledge, as is evident from the rescript of the Holy Congregation of June 1, 1878, before the approval of the aforementioned agreement: "It is not necessary to delay until all that is required by law is presented, and from another of September 2, of the same year, in which the Bishop is ordered to hear the Chapter of the Cathedral, and this, in fact, was heard, as the Bishop himself reported to the Holy Congregation on the 17th day of the same month." As for the defect of the interpellation of the Municipality of Mattaincourt and the parish fabric council, concerning which the first pertains to the bare ownership and the second to the use of religious property according to the civil laws of Galliae, whether this constitutes a defect of legal solemnity according to the Sacred Canons, this depends on the judgment of the Holy Congregation.

[*Latin ed. p. 627*]

St. DEODATI 627 By the same calculation, those things which the Bishop took from the case of a foreseen greater necessity, as mentioned in Article III of the agreement, were to be considered in relation to his decree. For it was observed that the laws prohibiting the transfer of the parish to a regular priest existed even at the time the agreement was initiated; therefore, if at that time there were no obstacles to the regular priest being considered, and his legal position was established, then it cannot now serve to prevent it. Finally, concerning those things which the Bishop brought up, both regarding the aversion of the parishioners and the opposition from the civil authorities and the Government, the Superior General of the Order responded that the alleged opposition did not exist; and if the religious were expelled from the parish, then it must entirely be restored by the Episcopal Curia, which, in order to achieve this, has used the services of the Syndic of Mattaincourt and even the Government of the Republic, as stated in the document from the Bishop which was read by Minister Constans in the hall of the French Senate. Having briefly related these matters, the question was posed: Whether the Bishop's decree of June 18, 1891, can be maintained in this case. RESOLUTION. The Holy Congregation of Bishops and Regular Canons, convened for the truth of the matter, wrote on March 9, 1894: Negatively. CONGREGATION OF THE BARNABITE BROTHERS OF THE HOLY FAMILY, March 9, 1894. The General Procurator of the Congregation of the Barnabite Brothers reported, after the month of December, that a religious, who unexpectedly passed away, who, as a parish priest, governed the church of a certain college of his community, had various

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laws... SUMMARY OF THE FACTS.

[*Latin ed. p. 628*]

628 The records pertaining to the Barnabite Congregation concerning endowments and masses, administered directly by it, have been lost or have not been found. Therefore, it was requested that the Congregation no longer be bound by these obligations; or, if that were not possible, that it be relieved of them, so that, through its own efforts, the partial or complete restoration of the endowments of the legatees might occur as soon as possible. Synopsis of the Discussion. Indeed, the Procurator observed that, since the year 1877, a law had been enacted in the General Chapter, and subsequently confirmed in later General Chapters, that pious bequests or endowments for masses would not be accepted by the Congregation, unless the donors were warned of the cessation of the endowment, whenever the funds deposited for that purpose were lacking. In truth, nine such bequests (of which the Procurator presented a list to the Congregation) were accepted after that year, and if, through the fault of the parish priest, the endowments of these bequests had diminished, certainly the Congregation was not to be held responsible. Furthermore, some of these bequests contained a condition regarding the cessation of the endowment in the event of the loss of the endowment, as are those under numbers 3 and 4 of the aforementioned list; others were accepted by the parish priest without knowledge of the Order, or without the approval of the General Chapter, as are those under numbers 1 and 2; and still others are uncertain as to the number of masses to be celebrated. Therefore, the Procurator concluded that the obligations pertaining to these bequests had ceased. Regarding the requested relief, the Procurator recalled that, through the loss of the endowments of the legatees, the Congregation had lost more than 800 pounds of annual income, making it entirely impossible to fulfill the aforementioned obligations. Despite this, in the general meeting, the following points were raised: POINTS FAVORABLE TO THE PROCURATOR'S REQUEST. Question I. Does the Barnabite Congregation still remain bound to fulfill these obligations in this case? And, if so, in what extent? Question II. Should the requested relief be granted in this case?

[*Latin ed. p. 629*]

CONGREGATION OF THE BARNABITE FATHERS, RESOLUTION 629. The Holy Congregation of Bishops and Regular Canons, having considered the matter on March 9, 1894, decided to respond as follows: To I. Affirmative. To II. Negative; and the Father General Prefect should ensure that, within one year, the pious endowment of Gafsa is restored, while the occasional reduction of Masses to one-third remains in effect, with all other obligations remaining firm. FROM THIS, ONE MAY CONCLUDE: I. That any donation or offering made to pious works or as a bequest, intended

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to be permanent, when made to a religious institution, is considered to be made to the Community or Order itself, and therefore, the Community, and not the Regular Canons individually, are responsible for these matters. II. Therefore, the reasons presented by the Procurator were not considered valuable by the Holy Congregation, because the burden of safeguarding the aforementioned endowment fell upon the Community of the Barnabites, and not upon leaving it in the hands of a deceased religious parish priest. III. Consequently, the obligation to restore the lost endowment was rightfully imposed upon the Father General Prefect, because the omission occurred due to the fault, or rather, the negligence, of the Community.

FROM THE SACRED CONGREGATION OF RITES IN TOLEDO (or CÓRDOBA). Decree concerning the beatification and canonization of the Venerable Servant of God, John of Avila, secular priest, called a master. ON THE QUESTION: Given the approval of virtues and three miracles, can the solemn beatification of the Venerable Servant of God proceed safely? The Venerable Servant of God, John of Avila, born in the Diocese of Cluny at the end of the fifteenth century, filled with the spirit of wisdom and understanding by God, earned that praise which the sacred Scriptures attribute to those who devise wisdom in their hearts, and in

[*Latin ed. p. 630*]

630 Those who, understanding the most hidden things of the Sacred Rites, approach them as investigators (Eccli. xiv, 23). Indeed, He Himself clearly revealed to those virtuous men, those things which are proper to wisdom, and also through the preaching of the divine word, the moderation of souls, and through writings and examples of life: with these treasures of wisdom, He poured forth the divine grace in such a way as to glorify God and to benefit His neighbors to a remarkable degree. Hence, adorned with the splendor of the Lord, he was admired throughout almost all of Hispania, and some even followed him as a master in the pursuit of Christian perfection, whom the Church now venerates among the Saints in Heaven. The sanctity and fame of him, who died in Montilla in the year 1619 at the age of seventy, greatly increased because of the miracles which were attributed to his intercession, so that the cause for his Beatification and Canonization began to be considered by the Congregation of Sacred Rites; and concerning his heroic virtues, the blessed Pope Clement XIII issued a decree on February 12, 1769: and concerning three true miracles effected through his intercession, the Most Holy Pope Leo XIII declared, on the eve of November 15 of the preceding year, that they were duly proven. Therefore, it seemed that nothing remained except to determine whether the Venerable John of Avila could safely be granted the public honors of devotion. However, this doubt was presented to the Most Reverend and Illustrious Cardinal Aloysius Serafini, Bishop of Sabina, the Promoter of the Cause, on December 4 of the same year, in the general assemblies of

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the Congregation of Sacred Rites, held in the Vatican, before the same Most Holy Pope, and the Reverend Cardinals and Consultors gave their votes. Nevertheless, the Most Blessed Father decided to postpone his apostolic judgment for a time, and he admonished all to humbly implore the help of God. And so, on this day, the first Sunday of Lent, after the Sacred Office had been performed, sitting in the pontifical hall in the Vatican, in the presence of the Most Reverend Cardinal Caietano Aloisi-Masella, Prefect of the Congregation of Sacred Rites, and the new Promoter of the Cause, as well as the Reverend Father Augustine Capram, Promoter of the Holy Faith, and myself, the undersigned secretary, he decreed: "That it is safe to proceed to the solemn Beatification of the Venerable Servant of God, John of Avila." And this decree was made public, and was recorded in the Acts of the Congregation of Sacred Rites, and the Apostolic Letters were prepared in the form of a Brief.

[*Latin ed. p. 631*]

From the Sacred Rites, 631, concerning the Beatification, which is to be expedited, dated the third day of February, in the year 1894. [Signed] Cardinal Aloisi-Masella, Prefect. R. C. L. * Saint Vincent Nussi, Secretary. HISPALEN. Decree of Beatification and Canonization of the Venerable Servant of God, Father Didacus Joseph of Gadis, a professed priest of the Order of the Minor Friars of Saint Francis, the Capuchins.

CONCERNING THE DOUBT: By what miracles is it established in this case, and to what effect, that what is being considered here is true? How clearly did the promise of Christ the Lord, "He who follows me shall have the light of life," shine forth in the Venerable Didacus Joseph of Gadis? For the divine splendor of this man, which illuminates men for the pursuit of true wisdom, and which elevates them to great, sublime, and arduous things, wonderfully shone forth in him. Indeed, the fruitfulness of his works, and the benefit to society, which even his enemies admire, are so outstanding that the religious themselves, as well as the Catholic Church, praise them singularly. Illuminated by the Divinity, he entirely denied himself and disdained the world, and he had no greater desire than to seek after the things of Jesus Christ, especially to love God and his neighbor. He accomplished this marvelously in Hispania, which he traversed almost entirely, preaching the word of God by example and by word until his death, which occurred in the year 1751, at the age of fifty-eight. In this ministry, he shone forth with such extraordinary virtues and such a desire to serve God, that he was considered by all to be like another Paul. Moreover, as the fame of his sanctity grew daily, and as heavenly wonders also occurred, by which God seemed to confirm him, the cause for his Beatification and Canonization was initiated with great eagerness in the Congregation of Sacred Rites, and the Most Holy Pope Leo XII judged the

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Venerable Didacus to have possessed heroic virtues.

[*Latin ed. p. 632*]

632 FROM THE SACRED RITUALS: On the ides of February in the year 1884, a solemn decree was issued by the Holy See concerning two miracles, which were affirmed to have been wrought by God through the intercession of the Venerable Servant of God. The first discussion took place before Cardinal Raphael Monaco of Valletta, Bishop of Ostia and Velletri, the Promoter of the Cause, in a preparatory meeting held on the fourth day before the Kalends of January in the year 1892; the second in the Vatican Buildings on the thirteenth day before the Kalends of January in the year 1893; and the third, likewise in the same Vatican Buildings, on the twelfth day before the Kalends of April of the same year, where the Reverend Cardinals and Consultors of this Sacred Congregation individually expressed their votes. His Holiness, however, deferred giving judgment on this matter of such gravity, and admonished all to humbly implore the help and light of God. Today, on the Sunday in the Octave of Easter, after the celebration of the unbloody Sacrifice, and seated on the pontifical throne in this Vatican hall, by the Most Reverend Cardinal Caietano Aloisi-Masella, Prefect of the Sacred Congregation of Rites, together with the Most Reverend Father Augustine Caprara, Promoter of the Holy Faith, and myself, the undersigned Secretary, and with those present, it was decreed: That there are two proposed miracles, namely, the first, "Of the prodigious emission of blood from the dry bones of the Venerable Servant of God," and the second, "Of the instantaneous and perfect healing of Sister Adelaide Quiros Herrera, who was afflicted with the fatal symptoms of pulmonary phthisis"; and that, having considered the decree issued by His Holiness himself concerning the approval of virtues, and having duly carried out all other matters in this Cause, it is permissible to proceed to the solemn Beatification of the Venerable Servant of God. And this decree is to be made public, and to be recorded in the Acts of the Sacred Congregation of Rites, and letters Apostolic are to be prepared in the form of a Brief for the solemn Beatification whenever it shall be deemed fitting, on the first day of April in the year 1894.

C. L. * CARD. ALOISI - MASELLAS.

B. C. Prefect.

C. Secretarius.

S. VINCENTIUS NUSSI, S. R.

[*Latin ed. p. 633*]

FROM THE SACRED RITUALS, 633, FERMO. Decree concerning the

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Beatification and Canonization of the Venerable Servant of God, Father Anthony Grassi, a priest of the Congregation of the Oratory of Saint Philip Neri, in the city of Fermo. CONCERNING: Given that there is doubt regarding the approval of virtues and of two miracles, can the solemn Beatification of the Venerable Servant of God proceed safely? Those outstanding servants of Christ, who, responding with alacrity of spirit and effort to the most perfect calling, have devoted themselves entirely to those things which are His and to the salvation of souls, demonstrate that Venerable Anthony Grassi, a priest of the Oratory, should be numbered among them; eighty years of life, which he lived in holiness, strongly attest to this. For he showed himself to be entirely outstanding in his desire for divine things, in the cultivation of all virtues, and especially in his ardent charity towards sinners and the poor, thus being a most worthy imitator of Saint Philip, whose labors, likewise, God completed with the most excellent fruits of sanctity and honor. After his precious death, which occurred in the year 1671, the praise of his sanctity, for which he had lived, spread more and more from day to day, due to the miracles which were attributed to the invocation of his name, and therefore, the cause for his Beatification and Canonization was begun with the Sacred Congregation of Rites. Therefore, after due investigations and expenses properly incurred, the Blessed Pope Clement XIV, on the Kalends of April, in the year 1770, decreed that Venerable Anthony had shone forth with heroic virtues; and the Most Holy Pope Leo XIII, having established that two miracles occurred through his intercession, confirmed this on the eve of November of the preceding year. Furthermore, it remained to discuss whether the same Venerable Anthony could safely be granted the aforementioned honors; and this matter was to be discussed before the Most Reverend Cardinal Caietano Aloisi-Masella, Prefect of the Sacred Congregation of Rites, in place of and in the stead of the Most Reverend Cardinal Angelo Bianchi, Bishop of Palestrina, Promoter of the Cause, in a plenary session of the aforementioned Congregation, held in the Vatican Palace on the IV Kalends of December of the same year, when each of the Most Reverend Cardinals and Consultors presented his opinion. However, the Blessed Father hesitated to express his opinion in this important matter, and instead, he implored the more ample help of divine light.

[*Latin ed. p. 634*]

634 FROM THE SACRED CONGREGATION. On this day, the First Sunday of Lent, having offered the Host of Peace, while seated on the pontifical throne in this Vatican aula, and having heard the opinions of the aforementioned Most Reverend Cardinals Caietan Aloisi Masella and Angelo Bianchi, together with the Reverend Father Augustine Caprara, Promoter of the Holy Faith, and myself, the undersigned Secretary, and with those present, it was decreed: "That it is permissible to proceed to the solemn

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Beatification of the Venerable Servant of God, Anthony Grassi." This decree was made public, and was recorded in the Acts of the Congregation of Sacred Rites, and letters Apostolic, in the form of a Brief concerning the Beatification, whenever it is to be celebrated, were ordered to be prepared. February 14th, in the year 1894. C. CARD. ALOISI - MASELLA, Prefect of the Sacred Rites. S. VINCENTIUS NUSSI, Secretary of the Sacred Rites.

FROM PESCHIERA. Regarding the commemoration of the Patron. The Most Reverend Monsignor Francis Maria Rovériede Cabrières, the present Bishop of Peschiera, humbly submitted the following question to the Congregation of Sacred Rites for a suitable solution, namely: Whether the commemoration of the Patron of a place, which differs from the titular Church, should be made by those who are strictly devoted to a particular Church, so that they are obliged to celebrate a double commemoration, namely, the first of the Patron of the place, and the second of the titular Church? And the same Sacred Congregation, after hearing the report of the undersigned Secretary, and after a careful deliberation with a vote from one of the Masters of the Apostolic Ceremonies, considered it appropriate to respond in writing to the aforementioned question, namely: Affirmatively, regarding the titular Church; and also regarding the Patron, if the custom is observed. And thus it was written on April 6th, 1894. C. CARD. ALOISI - MASELLA, Prefect. S. VINCENTIUS NUSSI, Secretary.

[*Latin ed. p. 635*]

63S APPENDIX VI. EXHIBENS ACTA SEDIS APOST.; AUT QUAE TEMPESTIVO QUAE AUT IAMDIU EXARATA SUNT LATUERUNT EPHEMERIDUM MODERATOREM. S. C. S. Officii I Septembris 1841 — Concerning the blessing of marriages in common. When several couples are joined together simultaneously, having first obtained the consent of each individual, and the individual marriages having been duly celebrated, and the formula "Ego vos coniungo in matrimonium, etc." having been said for each, there is nothing to prevent the blessings of the rings and other blessings from being conferred in common through general words. S. C. S. Officii I Septembris 1841. — Concerning the blessing of marriages. 1. A marriage lawfully contracted before a priest may be blessed by another priest with the consent of the parish priest or Ordinary. — 2. Regarding the celebration of Mass for the betrothed, the decree of the Holy Roman See of March 3, 1818, should be observed. — 3. A priest is not obliged to offer Mass for the betrothed unless he receives an alms from them. — 4. In the same Mass, a priest may bless several betrothed couples. — 5. The betrothed couples, kneeling before the altar, should be sprinkled with blessed water by the same priest celebrating, and not by another priest. — 6. It is not permissible to bless the betrothed in a Mass for the dead, but rather the blessing should be transferred to another day. S. C. S. Rit. 14 Augusti 1858. Montis Albani. — Concerning the blessing of marriages. 1.

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Can a priest, when marriages are celebrated outside of Mass, as frequently happens in the churches of the diocese of Montauban, impart the blessing to the betrothed, and recite the prayers which are found in the Missal for the Mass for the bride and groom, and those which are to be said after the "Pater Noster," and before the "Placeat," when it is not a matter of marriages in which the aforementioned blessing is to be denied? And, if affirmative, is he obliged to do so?

[*Latin ed. p. 636*]

APPENDIX VI. 2. Is it permissible to postpone the Mass for the bride and groom, and the blessing, to the immediately following day, or to a much later date, even if the couple are already cohabitating in the same house before receiving the sacerdotal blessing in the church? 3. Whether the prohibition of marriages during Advent and Lent should only be understood to apply to the Mass for the betrothed, and to the prayers for the blessing of the betrothed contained in the Missal; or whether it also applies to the marriage itself, which is celebrated only with the ceremonies and prayers found in the Rituale. 4. Whether a license granted by the Bishop to contract marriage during the times prohibited by the Holy Council of Trent is considered to also permit the blessing of the couple through the prayers and orations contained in the Mass for the betrothed. And, if so, whether the Bishop can grant this permission in such a case.

R. To 1. No, in all cases. To 2. No, in this case. To 3. Affirmative, regarding the first part; negative, regarding the second, provided that the permission of the Bishop is obtained. To 4. No, in all cases.

S. C. S. Officii I Febr. 1871. Vic. Ap. Myssur. Concerning the nuptial blessing to be received.

1. Can Gentile women who are married, or widows, or notoriously corrupt, who receive Christian marriage after having converted from paganism, receive the nuptial blessing within the Mass?

2. Can Christian betrothed who received marriage the day before in the afternoon in the church, and who both come to Mass the following day, receive the blessing within the Mass, without being questioned about continence observed during the night?

R. To 1. Affirmative. To 2. Affirmative; and in no way should the question mentioned in the doubt be asked. And it is understood that the Holy Council of Trent does not urge (Session XXIV, chapter I, De Reform. Matrim.) that spouses should not cohabit in the same house before receiving the sacerdotal blessing in the church.

[*Latin ed. p. 637*]

APPENDIX VI. 637 Secret Consistory, August 31, 1881. Concerning the Blessing of Marriage. The nuptial blessing which the Roman Missal provides in the Mass for the bridegroom and bride should always be conferred

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upon Catholic marriages, but within the celebration of the Mass, according to the rubrics, and outside of the time of feria, for all those spouses who have not received it when entering into marriage for any reason; even if they request it after having lived in marriage for a long time, provided that the woman, if a widow, has not received the blessing in other marriages. Furthermore, those same Catholic spouses who have not received the blessing of their marriage should be encouraged to request it at the first possible opportunity. It should also be made known to them, especially if they are neophytes, or if they validly contracted marriage before conversion from heresy, that the blessing pertains to the rite and solemnity, and not to the substance and validity of the marriage. Secret Consistory, September 7, 1878. Vicariate Apostolic of Korea. — Concerning the healing of marriage. For nine years now, the Korean Mission has been subjected to immense persecution, and there is no priest who can instruct the Christians and administer the Sacraments to them. Already, thousands of Christians have been killed by the persecutor, and others, dispersed and wandering, can scarcely find a place where they can live without the danger of death. Consequently, many of them have been forced to contract marriages with pagans, and that without a dispensation from disparity of cult, since there was no missionary who could grant such a dispensation. Also, it sometimes happens that, in the exercise of the privilege of faith, a non-Christian spouse who has been converted and baptized omits the canonical investigation concerning the spouse who remains in infidelity, although in many cases this investigation would have been, or at least was of doubtful obligation. Finally, it should be noted that, as long as the fury of the persecution lasts, it will not be possible to carry out such an investigation concerning the former non-Christian spouse without exposing the flock of the faithful to a greater persecution, and perhaps to death. Therefore, in order to provide for the aforementioned inconveniences, both for the past and for the future, the undersigned humbly implores a double grace, as follows: For the past, that Your Holiness would deign to heal the marriages already contracted in Korea, which have been rendered invalid or doubtful, due to the omission of the investigation, or due to disparity of cult, or some other impediment of ecclesiastical law...

[*Latin ed. p. 638*]

638 APPENDIX VI. R. Concerning marriages that are null and void, either due to a disparity of cultus, or due to another impediment of purely ecclesiastical law, application must be made to the Most Holy Father for the grace of a radical remedy. However, in cases where a marriage has been contracted in the usual manner, and the infidelity of the spouse has not preceded, or a dispensation has been obtained from her, the Apostolic Vicar, by the faculty benignly granted to him, may dispense from the requirement of prior notification, and should certainly strive to obtain

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a renewal of consent; but in those cases in which he judges that this renewal cannot be accomplished at present, he should remain silent, if it is believed that the spouses are acting in good faith. — The Most Holy Father, Pope Leo XIII, benignly granted the grace according to the votes of Emorum and Rmorum. Letter from the Sacred Congregation of the Holy Office, November 22, 1889. — Concerning the radical remedy. The radical remedy cannot take place without the Catholic party knowing of the nullity of the marriage and fulfilling the conditions of the decree. The radical remedy cannot occur unless the Catholic party is aware of the nullity of the marriage and fulfills the conditions of the decree. Sacred Congregation of the Holy Office, March 20, 1889. Ep. Wayne Castren. Concerning the judgment of the validity of marriage. In the United States, in the northern provinces, it is not uncommon for some to be converted to the Catholic faith who were previously united in a civil marriage, and who have subsequently obtained a civil divorce. At the time of their conversion, they have either already entered into a second marriage, or intend to do so. Certainly, the first question to be resolved is this: Was the first marriage valid, either as a contract or as a Sacrament? However, assuming that, based on documents and certain evidence admitted by the episcopal court and by the defensor matrimonii, it is established that the first marriage was certainly null, either due to the bigamy of the other party, or due to a disparity of cultus, is the notification of the defensor and a judgment in a second instance required, as prescribed by Benedict XIV in the case of nullity of marriage in the eyes of the Church? Or is it sufficient that it is certainly established that the first marriage was absolutely null, so that no second instance and judgment are required? R. Provided that, through at least an extrajudicial process, it is certainly established that the marriage is null due to a pre-existing impediment that is clearly proven, the answer is: No.

[*Latin ed. p. 639*]

APPENDIX VJ. 639 Secret Consistorial Office, May 5, 1889. – Concerning the judgment of the marriage bond by the Ordinary. When the impediment of disparity of cult is involved, and it is clearly established that one party has been baptized, and the other has not; when the impediment of prior bond is involved, and it is certainly established that the first spouse is legitimate and still living; when, finally, it is a question of consanguinity and affinity arising from a licit marriage, or even of spiritual relationship, or of the impediment of clandestine marriage in places where the Council of Trent, although published, has not been observed for a long time; provided that, from a certain and authentic document, or, in its absence, from certain evident arguments, it is clearly established that such impediments exist, concerning which ecclesiastical dispensation has not been granted: in these cases, the Ordinary may declare the marriage null, after the formalities prescribed in the Apostolic Constitution *Dei miseratione* having been omit-

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ted, but with the intervention of a defender of the marriage bond, which is necessary for a second sentence. From the Instructions of the Secret Consistorial Office, August 16, 1781, to the Bishop of Scepusien. Concerning the burial and funerals of heretics. Regarding the burial and funerals of heretics, little should be done; for it is well known and widely accepted that communication with heretics, whether living or dead, is forbidden to Catholics. But to the point, and first, concerning burial: Chapter *Sacris, de Sepulturis*: "It is the institution of the canons that those with whom we do not communicate while living, we should not communicate with in death; and that those who were previously separated from ecclesiastical unity should be deprived of ecclesiastical burial." And in the chapter *De haereticis* in 6: "Whoever presumptuously dares to grant heretics ecclesiastical burial, unless they publicly and manifestly repent, do not deserve the benefit of absolution, unless they publicly and with their own hands cast out such bodies of the damned." Furthermore, in the Roman Ritual of Paul V, in *De exequiis*, Title 6, chapter 2, ecclesiastical burial is denied to pagans, Jews, and all infidels, heretics, and their supporters; and Martin V, whose Constitution *Ad evitanda* some extend too much in favor of heretics, in the subsequent *Inter cunctas* decrees: "If such heretics, although not yet declared by the Church, should die in this grave crime, they shall be deprived of ecclesiastical burial."

[*Latin ed. p. 640*]

640 APPENDIX VI. Nor can anything avail to procure that heretics might enjoy the benefit of ecclesiastical burial, whether it be that they are brought in, not through the doors, but through the crypts of the church; or that their families have long possessed that right; or, finally, that they promise to maintain the roof and structure of the church. For it would be a disgrace to the laws of the Church, if heretics were to be associated with Catholics in a common burial, even though they use a different entrance to the tomb. And what right can families possess, if someone has fallen away from the faith, so that, according to the sacred canons, they ought to be deprived and stripped of all right and privilege which they have obtained through the benefit of the Church? Finally, the expenses promised by heretics for the restoration of churches should not move you, so that you might think that they can be associated with Catholics in a common tomb. However, you rightly fear that what is denied to heretics by the Bishop, they might obtain from secular authority. The piety of Catholic Princes suggests that this will not happen; nevertheless, whatever has been done without your consent and direction, if indeed you cannot prevent it without the danger of disturbances and discord, you will bear it with a sorrowful and silent patience, so that you may be praised for Christian equanimity and tolerance, but never blamed for consent and approval. Although you inquire not only about churches, but also about cemeteries, which are common to heretics and

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Catholics; and since this cannot be tolerated without offense, "The Bishop has decreed," you say, "that, according to a recent royal decree throughout the Kingdom, on the occasion of burials, bodies should be transferred from the areas surrounding the churches, outside of cities, towns, and villages, to new cemeteries which are to be established; and that, in the remaining part of the same cemetery enclosure, the bodies of non-Catholics should be buried." This is indeed well arranged and established by you, for the sake of that which the Bishop must bear with patience and tolerance in this time of injury. However, let Your Eminence see to it that, as far as possible, without the danger of contention and discord, everything concerning the burial of Catholic bodies, both in terms of location and in terms of other Church ceremonies, conforms to the sacred canons, which you know so well.

[*Latin ed. p. 641*]

641 APPENDIX VI. Sacred Congregation of the Holy Office, December 2, 1840. Concerning ecclesiastical burial granted to those who had given their name to the Masonic sect. Whether it is permissible to celebrate the funeral rites and grant ecclesiastical burial to those who, before their death, received the Sacraments, but who nevertheless gave their name to the Masonic sect, and who have the emblems of that sect in their coffin. R. Affirmative, provided the form of Innocent III, Chapter "A nobis," concerning excommunication, is observed; that is, the insignia of the sect condemned by the Church are removed, and provided that the placing of the emblems was not requested by the deceased after receiving the Sacraments, or if it was requested, that it has been revoked; and that they are removed immediately upon their being discovered, and in any case, before the body is associated with the association. Parish confessors are to be reminded of the obligation to demand a retraction before granting sacramental absolution. Sacred Congregation of the Holy Office, May 16, 1866 – Suicides with regard to ecclesiastical burial. Whether it is permissible to grant ecclesiastical burial and to celebrate the funeral rites for suicides. R. Parish priests and missionaries are to be reminded that, in each case in which this doubt is raised, they should, as far as possible, consult with the Ordinary. However, the rule is that ecclesiastical burial is not to be granted to those who kill themselves out of despair or anger (unless it occurs due to insanity), unless they have, before their death, made an act of penance. Furthermore, when it is certain that the death occurred due to anger or despair, ecclesiastical burial must be denied, and the pomp and solemnities of the funeral rites must be avoided. When, however, it is certain that the death occurred due to insanity, ecclesiastical burial is to be granted with the solemnities of the funeral rites. Finally, when there is doubt as to whether a person took their own life out of despair or due to insanity, ecclesiastical burial may be granted, but without the pomp and solemnities of the funeral rites. Sacred Congregation of the Holy Office, July 25, 1630. – Concerning the confessar

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in relation to repentant apostates at the point of death. How a confessar should act towards repentant apostates who are at the point of death, when they are secretly summoned by them to be secretly absolved. The reason for the difficulty is that, at that time, they are often induced by their family or by false priests to perform acts of false religion, and they cannot refuse without risking their lives. Acts, Volume XXVI, page GCCXL 41.

[*Latin ed. p. 642*]

642 APPENDIX VI. The Most Holy Congregation decided that a confessor ought to absolve a penitent apostate according to the established rule, after the apostate has first, in the forum of conscience, abjured his apostasy; and if, after some time, he is able, he should abjure publicly before the faithful; and if he is not able to do this, he should leave a written declaration of his abjuration, at least signed with the sign of the cross; and if he is not even able to do this, he should communicate with the confessor, so that he may manifest his abjuration to the faithful. However, a penitent apostate should not be compelled, even under the urging of Turks, to confess the Catholic faith, if he is in danger of life, having previously, through infidelity, renounced the Catholic faith which he now embraces; but he should evade their persuasions, either by not responding, or by using ambiguous words. S. C. S. Officii, July 29, 1699. — Concerning a Calvinist who embraces the Catholic religion. A man of the highest nobility, raised in England from childhood in the Calvinist heresy, having recently recognized his error, decided to embrace the Catholic faith. However, for very serious reasons, also concerning the religion and the state in this kingdom in a true and supremely important way, he wished to keep his conversion secret. Under these circumstances, the following questions are raised: 1. Can this nobleman, in order not to reveal his conversion, until at least the opportunity arises to safely arrange his affairs, attend the same place as his heretical family for the customary heretical prayers, chosen by the aforementioned minister, by privately reciting Catholic prayers? 2. Can he safely leave his children under heretical tutors, while he would be promoting his own faith by doing so? R. To 1 and 2. It is not permissible. Instr. S. C. S. Officii, 1868 — Regarding the sign of the cross placed by the Chinese in various places, so that it may be trodden upon by those passing by. Questions were presented to the Congregation, first by the Reverend Father Francisco Tien, a missionary, and then by A. Tua, concerning the difficulties in which the faithful are found in the Hunan province. You reported that the pagans of that region were enraged by the freedom granted to the Christian religion, decreed by a public convention between the French and Chinese emperors.

[*Latin ed. p. 643*]

APPENDIX VI. 643: It is reported that, in order to incite madness, they ordered that the venerable sign of the Cross be inscribed or depicted with

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the feet of those walking back and forth on public roads, on bridges, and at the entrance to city gates, and in such a way that, in some places, this occurred with such frequency and continuity that even those who wished to avoid it could not, provided that they were continuing on their journey to Fermo. This, it is said, was done especially to harass Christians, so that they might be deprived of the entire city, with all their businesses abandoned, and so that they might almost perish from hunger and sorrow within their homes, or, having trodden upon the Cross, they might be forced to give a sign, as they believe, of their sworn religion. Regarding this matter, I add that I have seen some, in the early days of paganism, standing guard, as if to secretly investigate the behavior of Christians. After these accounts, I inquired whether it is permissible for Christians to walk upon such crosses, not out of contempt, but out of necessity, and also in the case in which they are standing near guards who are secretly observing Christians. And from this, it follows whether those who acted in this way acted rightly; if not, whether they should be left in good faith, or whether they should be warned, or even treated as apostates. The missionary Tien added other questions, namely, whether Christians, when walking, should use some diligence, and whether that diligence should be moderate or extreme, in order not to leave a footprint upon the crosses; and whether, indeed, it is permissible for them even voluntarily to tread upon them, not in order to show contempt for religion, but for the contempt of those who, without any authority, have depicted them. Therefore, if Christians are warned by anyone about some sign of the Cross that they may happen to have before their feet, it is the opinion of the Sacred Congregation that they should freely walk on, examining nothing. For, since those things which have been explained by Your Eminence are certain, and especially those two points are evident and publicly known: the necessity of acting in this way in order to carry out one's own business and to sustain life itself, and the firm will of Christians to remain in their religion, and to exclude all that is contrary to it, it is easily understood that such an action cannot be condemned, neither by its end, nor by its object, nor by its circumstances (which are the three elements by which the morality of an action is determined). For the end, which is directed not towards contempt for religion, but towards attending to one's own needs, is manifestly honorable; and, with such an end proposed, the very act of walking upon the crosses (in which act the object of the action is situated) must, if considered in itself, and without receiving any corruption from the circumstances, be free from all blame. For walking and leaving footprints are acts that are naturally indifferent; it necessarily follows that if an dishonest end is excluded, and an honest end, and one that is in accordance with reason, is proposed, then the very act itself must also be considered honest and in accordance with reason. Therefore, you know that it is not only among scruples that one turns away from religion

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if...

[*Latin ed. p. 644*]

644 APPENDIX VI. He trod upon pale stones arranged in the form of a cross while walking, and also, freely and openly, the faithful walk upon the stones of sepulchers in temples, where the most holy name of Jesus and His monogram, and crosses, are most frequently inscribed. Therefore, it remains that nothing from the surrounding circumstances should add to wickedness, except that in the case proposed, one circumstance appears to present some difficulty, namely, that the pagans, when describing these crosses, intended to lay a trap for the Christians, so that, if compelled by necessity to tread upon them, they might seem to have renounced their religion. To this, A. adds another point, which seems to move him somewhat, namely, that they were also seen in the early days in the pagan watchtowers, in order to observe the behavior of the Christians; however, this circumstance is easily seen to have no importance whatsoever. For when you say that they were entirely silent, and heard nothing at all, it is plainly understood that they are to be regarded just as those who would see Christians passing by by chance. Therefore, one thing must be considered here, both with regard to them, and with regard to others who are present by chance, and also with regard to others who learn of the deed when absent, whether that evil intention with which the pagans inscribed the crosses, would rightly give rise to scandal among them, if Christians were to walk upon them, as if they had given evidence of having renounced their religion. Since these two things are plain to all, and are publicly known, namely, the will of the Christians, who adhere openly and firmly to their religion, and equally abhor those things which are contrary to it, and the true reason which compels them to frequent the city streets, which is the necessity of conducting their business and sustaining their lives, it necessarily follows that if anyone, blinded by his malice, refuses to see what everyone sees, in order to falsely attribute apostasy to the Christians, he certainly suffers a scandal not of small consequence, nor one born of weakness, but one produced by the Pharisees and by malice. You know that the scandal of the Pharisees is to be despised, and therefore you see that Christians cannot be proven guilty, neither by the end, nor by the object of the action, nor by the circumstances, of freely walking through the city without examination. However, the Holy See considered that this should be maintained only in that case when no one warns the Christians about any cross that they have near their feet. For if they are warned by someone, the same Holy See responded that they ought to take care diligently, lest they press the Cross with their feet, since, if warned, they freely trod upon it, when they could avoid it, they would rightly seem to have violated the sanctity of their religion with weakness and infirmity. Therefore, the Fathers could not be surprised by the doubt that

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was raised, namely, whether the faithful could also voluntarily tread upon crosses in contempt of those who made them, but without contempt for their religion.

[*Latin ed. p. 645*]

APPENDIX VI. 645 Who does not see that contempt for the Cross cannot be separated from contempt for those who depict it, in such a case? And this excuse, if admitted, could also be used by one who throws the true Cross at the feet, saying that he does not despise Christ, nor that Cross, but the Jews, who placed it there. But even if such an abstraction were possible, it is clear that, at least for the weak, it is not permissible to do so, lest they cause scandal. As Chrysostom observed in a similar case (Hom. XXV. n. 2. in 1. Cor.), speaking of those who thought it permissible for Christians, even if they were wearing a ring, to eat food offered in sacrifice, provided they declared that they were doing so out of the freedom of their will, and not out of consent to idolatry, so this remedy does not at all heal the wound of the weak, because, seeing that they could have avoided it and thus removed all suspicion of violating their religion, and yet they did not, the Holy Doctor says that they never allow themselves to be persuaded that there was no evil intention in that matter, even if it is repeated a thousand times: they are weak. Therefore, when the Apostle of Germany, Saint Boniface, asked Pope Gregory II, "Whether it is permissible to eat food offered in sacrifice, if a living person has been led by the faithful to touch a cross?" Saint Gregory (ep. XIII. §. 6.) replied: "It is sufficient to answer concerning this matter that the Apostle Paul says: 'If anyone tells you that something is offered in sacrifice, do not eat it, for the sake of the one who indicated it, and for the sake of your conscience.'" Therefore, if Christians are warned that they have a cross before their feet, they must certainly take care not to trample on it. And if it is necessary to pass in such a way that one can only pass by walking over the crosses, then, the Holy See responded, it is permissible to do so, but in order to remove all reason for scandal, two conditions must be observed. The first is that the Christians must openly declare, in the presence of those who are warning them and those who are listening, that they have absolutely no intention of doing any harm to the Cross; the second is that, in the very act of passing, they must take care to behave in a manner that is as decent as possible, so that some sign of reverence may appear from that very action. If these things are done when it is clear that it is necessary to act in this way, and that there is no intention of violating the religion of others, then, if anyone were to take offense at this, he would plainly follow the ways of the Pharisees, and therefore his accusation should be disregarded, especially since, if Christians allow themselves to be more and more afraid of these pagan insults, they would be giving them an opportunity to make the condition of the Christian religion increasingly difficult, and to extinguish it easily with these arts. Therefore, the answer

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that the Holy See considered it appropriate to give to your requests is as follows: 1. If

[*Latin ed. p. 646*]

646 APPENDIX VI. Christians are to be instructed that if they happen to encounter a cross in their path, they ought freely to proceed without hesitation, according to the admonition of St. Paul (1 Corinthians 10:25, 27). 2. If they are instructed, they must take care not to step on the image of the cross. 3. If a cross is present in a necklace, and they find themselves on a path that is otherwise passable, but only if they pass by it, they ought to pass in such a way that they first explicitly declare that they have no intention of violating the sanctity of the cross, and then, in the very act of passing, they should observe a manner as decent as possible, so that some indication of reverence may be apparent from their action. These considerations are, indeed, sufficient to provide a certain rule for Christians, by which they may simultaneously attend to their needs and maintain the inviolable sanctity of religion. S. C. S. Officii, June 20, 1866. — Vic. Ap. ad Gallas. Concerning Circumcision among the Gallas. The practice of circumcision is prevalent among the Gallas, and it is customary to perform it on infants before they are brought for Baptism. The Gallas observe this rite most zealously, considering it one of the primary signs of Christian faith; they consider a church to be defiled if someone who has not been circumcised enters it; they despise European Christians because they are not circumcised, and they do not allow their children to be baptized unless they have first been circumcised; indeed, a serious riot once broke out in a certain town among the Gallas, because a missionary had ordered that boys, even those who had not been circumcised, be brought for baptism. Indigenous priests, even Catholic ones, tolerate the practice of circumcision, claiming that they are following ancient decisions of the Holy See, which did not strongly condemn circumcision among the Abyssinians, considering it a custom of that region. The Apostolic Vicar believes (although he does not dare to state this with certainty) that circumcision among the Gallas is more likely to be a mere civil rite than a sacred and religious one, especially because it is performed in private homes, and not by the hands of an ecclesiastical minister; however, since he sees that scandal arises from it, he asks: — Can the practice of circumcision, which is prevalent among Christian Gallas, be tolerated? R. First of all, the Apostolic Vicar must be reminded that it is false that indigenous priests assert that circumcision was formerly permitted or tolerated in Abyssinia by the Apostolic See, as a certain custom of that people. In fact, the Catholic Patriarch of Abyssinia, Alfonso Méndez, who had already, since the beginning of the seventeenth century, inquired whether circumcision could be tolerated among the Abyssinians, received the following response from the Sacred Congregation for the Propagation of the Faith, with the approval of the Pope, on August 28, 1637:

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that circumcision should not be tolerated under any pretext; pastors must correct those who...

[*Latin ed. p. 647*]

APPENDIX VI. 647 that they may, as much as possible, exclude the contumacious from Communion. When, in the year 1839, a certain missionary from Abyssinia renewed this request, the Eminent Inquisitors General, on June 17th of the same year, judged as follows: "Let the Decree of August 28th of the year 1637 be given; however, let the missionaries carry this out with all Christian prudence." Therefore, it is far from the truth that the Apostolic See has ever permitted or tolerated circumcision in Abyssinia; rather, it has expressly disapproved of it and strictly forbidden it. And rightly so, for although the Abyssinians would sometimes allege this reason, and sometimes that, for performing circumcision, it was nevertheless established, both by the most accurate account of the esteemed Patriarch, and by other undeniable arguments, that circumcision was observed by the Abyssinians as a sacred and religious rite. Furthermore, those things which the Apostolic Vicar now recounts concerning the Gallic people clearly demonstrate and persuade that these people also practice circumcision with some intention, whether explicit or at least implicit, of worship. For what else does their most persistent observance of circumcision signify, as one of the principal badges of the Christian faith, their contempt for uncircumcised Europeans, the opinion that the Church is somehow polluted by the entry of the uncircumcised, and that Baptism ought by no means to be administered unless circumcision precedes? Nor does the contrary result from the fact that circumcision is practiced in private homes, without the intervention of a minister of the Church; for even among the Hebrews, circumcision was performed by anyone, even in private homes. Therefore, the Eminent Fathers ordered that the Apostolic Vicar be informed of the Decree of August 28th, in the year 1637, with the admonition that the missionaries should carry this out with all Christian prudence. Although, according to this decree, the contumacious are to be excluded from Communion, let the missionaries take care not to deny Baptism to circumcised infants, since they suffer this injustice not through their own fault, but through the fault of their parents. Furthermore, since the Apostolic Vicar mentions in his letters certain other vain observances which are practiced among these same Gauls, and which are reminiscent of Judaism, such as the observance of the Sabbath and the distinction between clean and unclean animals, the Eminent Fathers ordered that the Apostolic Vicar and the other missionaries should make every effort to prudently eradicate such vain observances; for the Holy Roman Church, as was declared by Eugene IV in the Ecumenical Council of Florence, declares that all who, after the proclamation of the Gospel, observe circumcision and the Sabbath, and

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other legal observances, are alien from the faith of Christ, and cannot in any way participate in eternal salvation, unless they repent of these errors.

[*Latin ed. p. 648*]

648 Letters from the Most Holy Lord Leo XIII, Pope, to the Prelates of Peru. Among the grave and numerous concerns with which, by the highest apostolic office, we are constantly occupied and pressed, we have received with a willing heart the letters, full of courtesy, which you, Venerable Brothers, delivered to Us after your convocation in the city of Lima. — Indeed, while reading them, delighted by the paternal affection with which we regard you and your people, we earnestly commend your repeated testimony of love and fidelity to Us and to this Holy See of Peter; and, above all, we are pleased by the concordant zeal with which you have striven, obeying Our desires, to attend to the most important matters of religion and to promote the best morals among the flock which the Holy Spirit has entrusted to your care (1). We certainly approve very much, Venerable Brothers, of this zeal, by which you demonstrate the pastoral care entrusted to you, so that the faithful entrusted to you may persevere in the sincerity of the Catholic name. — Nevertheless, it is pleasing to add new incentives, as it were, so that, continuing on the path you have begun, you may be more zealous, and that you may attend such gatherings more frequently, according to the opportunity and necessity of the circumstances. For we are persuaded, by the constant experience and judgment of the Church, as we have stated many times, that it is far more effective against the errors that are spreading and gaining ground, and for the secure and firmer upholding of the most holy religion, if sacred prelates join together more closely, after having shared counsel, communicated proposals, and deliberated together. That these gatherings may be more fruitful and that greater benefits may be derived therefrom for your people, from Our knowledge of religious matters, as in Peru, and from our ardent desire that the Catholic name among you may experience greater growth, we wish, Venerable Brothers, to commend to you with particular emphasis certain matters to which you should devote your attention above all others. For these are those things which are most effective for safeguarding the path of faith and for promoting the efficacy of the Church; and for this reason, we have never ceased to impress them upon you, both through frequently published documents and through individual letters addressed to the Bishops.

(1) Acts 20:28.

[*Latin ed. p. 649*]

LETTERS 649. Therefore, first of all, it is necessary that you diligently consider the needs of your students, so that you may devise suitable means by which, in the training of the sacred order, not only the observance of moral discipline may be maintained with the utmost care, but also the ar-

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dent desire for acquiring knowledge may remain alive; so that those young men who are destined to become a hope for the Church may be drawn, as it were, to flourish in their studies, and may attain that splendor which We rightly desire, and which the times of religion demand. For We know, Venerable Brothers, that it was the design of Divine Providence that, just as the most valiant martyrs, having suffered under the most grievous tyranny and cruelty, broke the power of the persecutors, and that the blood of the martyrs became the seed of Christians; so too, men of outstanding wisdom, whom no time has destined, who are the guardians of the truth which the Only-Begotten Son of God brought from the Father to the earth and which He wished to be entrusted to the Church, are not only supported by sacred authority, but also by human resources. Now, however, since all things have been infected by the contagion of perverse opinions, and the wisdom that has been handed down from God is most strongly opposed and repelled by the appearance of progress in doctrine; it is necessary to understand that it is the duty of defenders to be ready, having drawn from the entire arsenal of sciences, always (1) to be able to give an account to everyone who asks them for a reason of the hope that is in them; and to exhort them in sound doctrine, and to refute those who contradict (2). Furthermore, in regulating the course of studies in your seminaries, We wish to bring to your attention, Venerable Brothers, what We have prescribed in Our Encyclical Letters. In particular, the greatest honor is given to the Angelic Doctor, Thomas Aquinas, and the wisdom contained in his works, which is constantly and abundantly drawn from the writings of the Romans, is generously imparted to the studious youth. Then, the study of physical sciences should not be neglected, for, besides the fact that they are now highly valued, they provide the most powerful arguments for Catholic dogmas, and from them the truth can be undermined; therefore, care must be taken that in the sacred Order there are not lacking those who, with the same prudence, may use the weapons of their adversaries to refute errors. Finally, as We have recently said concerning the cultivation of Biblical studies, –

[*Latin ed. p. 650*]

650. Let the records of appointments be diligently kept. If this is done, the clergy will flourish in their ministry, and the praise of the Church will endure, for it has always been, and must truly be, the advocate and protector of the best of men; and indeed, men of such caliber will be available to you, who, called to the service of your ministry, will be of great use to you in instructing the people and fostering piety.

Furthermore, we wish to impress upon you that only the most worthy should be appointed as curators of parishes. For those who are promoted to this office, which is indeed full of honor and authority, but also of cares and responsibilities, are those whom the bishops join to themselves as part-

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ners in their pastoral care, and whom they use as their principal helpers in instructing those who believe in Christ for eternal life (1). For Christ chooses curators so that they may faithfully perform their duties, lest the holy people of God be endangered by the attacks of enemies and suffer harm. They are, as it were, fathers of souls, constituted in the image of the Creator (2), purchased for God and the Lamb, not with corruptible gold or silver, but with the precious blood of Christ, as of a lamb without blemish (3); therefore, they must bring them forth again, until Christ is formed in them (4). They are pastors, who, unless they wish to be considered as mercenaries, ought to know their sheep, nourish them with the food of the Word of God, instruct them in the sacraments; and, themselves being the form of the flock, having the mystery of the Word in their conscience, pure (5), they should govern the faithful people so that they may be able to use the words of the Apostles: "Be ye followers of me, even as I am of Christ" (6). Finally, they are, as it were, in the place of angels, whom God sends before His people, to guard them in the way (7), and to bring them through enemies into the place which He has prepared for them, the holy city of Jerusalem, which is to be revealed in us in due time, at the last (8). These things, you see, Venerable Brothers, require great diligence on your part in selecting curators, and constant vigilance in maintaining them in this office. Such men are necessary, that they may be worthy of the Lord:

(1) 1 Timothy 1:16.

(2) Revelation 14:4.

(3) 1 Peter 1:18.

(4) Galatians 4:19.

(5) 1 Timothy 3:9.

(6) 1 Corinthians 4:16.

(7) Exodus 23:20.

(8) 1 Peter 1:5.

[*Latin ed. p. 651*]

LITTERAE 65. Vós estis lux mundi, vós estis sal terrae (1); caritate igitur et animarum studio incensos, qui non quaerant quaesua sunt, sed quae Iesu Christi, parati labores perpetuae pro animam ponere. Nam qui turpis lucri gratia vel humanis ductis rationibus tam arduum verendumque munus suscipere contendunt, quiconvenienti vitae sanctimonia doctrinaque carent, ii penitus arcendos sunt; mercenariis sunt enim, nec intrantes per ostium, ac sal infatuatum quod ad nihilum valet ultra nisi ut mittatur foras et conculcetur ab hominibus (2). Et haec quidem in eorum utilitatem spectant; qui iam sep tis dominicis gregis feliciter continentur. Atvero apud vos adsunt, Venerabiles Fratres, qui, nondum vocati in admirabile lumen Christi (3), sedent adhuc in tenebris et in umbra mortis (4); oves quae perierunt, quas oportet vos adducere ad pastorem

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supremum animarum Iesum. Civitas etenim Dei viv entis, Ecclesia Christi, nullis circumscriptalimitibus, ad salutem omnibus patet: visne et paene est, abipso divino Auctore tributa, ut attingat amariusque ad mare et latius in dies proferat locum tentorii sui et pelles tabernaculorum suorum (5), unde et catholica iure ac merito nominatur. Scimus equidem probeque novimus, hanc populorum accessionem ad Sion montem adivinagratiarepetendam, Deique esse christiano nomini incrementum dare; nemo enim venit ad Filium nisi Pater traxerit eum (6): hoc mentenemus Dei miserentis esse consilium, Redemptoris nostri facto ac doctrina testatum, ut mortales homines ipsius Dei operi in salutem animarum obsecundent. Fides namque, monente Apostolo, ex auditu est; auditus autem per verbum Dei: si quomodo audient sine praedicante? quomodo praedicabunt, nisi mittantur (7)? Quapropter monemus, Venerabiles Fratres ac stimulos caritati vestrae addimus, ut sacrae expeditiones apud Indos multiplicentur: multiplicentur viri misericordiarum, qui volentes libentes mittantur operarii in messem Domini, nec carni et sanguini acquiescentes derelictis fratribusomnia fiant, uteos Christo lucrifaciant; in (1) Matth. 5, 14. (2) Matth. 5, 13. (3) I. Petr. 2, 9. (4) Luc. 1, 79. (5) Is. 54, 2. (6) Io. 6, 44. (7) Rom. 10, 16-17.

[*Latin ed. p. 652*]

652 Let letters bring civilized culture and gentle manners to the barbarian people; let them dispel ignorance, so that finally they may receive among the saints through faith (1). Finally, concerning that which we earnestly desire to see in your writings, namely, that since, in these times, newspapers and periodicals are filled with perverse opinions and corrupt morals, your writings may be esteemed and used by others with the same purpose; they, unfortunately, contribute to destruction, while yours, piously, contribute to edification. It will certainly be very beneficial if men endowed with knowledge and virtue dedicate themselves to writing, whether daily or at longer intervals; for in this way, with errors gradually dispelled, truth will be more widely disseminated, languid minds will be stirred, and faith, which they cherish in their hearts, will be openly professed and strengthened. These most excellent fruits will, however, be achieved only if writers carefully fulfill their duties and strive for the best for their own cause. Indeed, as we have pointed out before, if, with moderation, prudence, charity, and true principles, they firmly uphold the most sacred laws of the Church, they will illuminate the majesty of the Apostolic See, and inspire respect for those who govern the republic; but in their writings, let them, as is fitting, defer to the judgment of Bishops, remembering to seek counsel. Thus, Venerable Brothers, through the good that exists in your community, which draws people away from corrupt sources and leads them to wholesome ones, we urge you to pursue what we desire and what is the aim of our counsel: we do not doubt that you

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will deliberate carefully and fulfill all that you have promised to do in order to respond to our wishes. And so that this common endeavor may succeed, we implore heavenly assistance, with prayers offered, together with the Immaculate Mother of God, Mary, the most holy Turibulum, the Priests, and the Virgin, whom the Church first in Peru, and throughout all of South America, calls the flower of sanctity. As a sign of our paternal affection, Venerable Brothers, under the auspices of these divine gifts, we lovingly bestow the Apostolic Blessing upon you and your clergy and people. Given in Rome, at St. Peter's, on the first day of May, in the year 1894, in the seventeenth year of Our Pontificate. LEO XIII.

(1) Acts 26:18.

[*Latin ed. p. 653*]

653 Letters from the Most Holy Pope Leo XIII to the Most Reverend Archbishop of Mechlin and other Bishops of Belgium, concerning the Louvain Athenaeum. Beloved Son and Venerable Brothers, greetings and the blessing of the Apostolic See. — We received, long ago, a proposal, and have often communicated with you, both in person and through letters, that a particular institute be established here for the more ample and proper transmission of the philosophical doctrine of Saint Thomas Aquinas; and now, with God's help, we are pleased to see this realized. We have judged this institute to be very useful for the support of youth, from which, not only clerics, but also many others, in all branches of study and in every discipline, will derive solid benefits; and we have also desired, with the help of funds provided, to offer a new and outstanding testimony of Our special esteem and benevolence towards the distinguished University of Louvain, so that its dignity might be increased. For, indeed, how much praise and excellence is added to lyceums and academies by a truly and fully Christian philosophical foundation, no sane person can deny: if that foundation, besides being a help to the diligent study of sacred doctrine, is also such that it gives birth to other disciplines and the arts, so that, as a guiding wisdom, it is accustomed to provide much assistance and to foster incorrupt judgment and useful prudence. But those who have long and diligently studied the discipline and method of the Scholastics can truly understand this. We ourselves have often and seriously reminded you, in previous communications, that the more a discipline approaches the doctrine of Saint Thomas Aquinas, the more beneficial it will be; and we see this happening more and more every day, with prejudices yielding to truth. — Therefore, in the very founding and preparation of this work, the generous virtue of the Belgians has shone forth, always eager and abundant for the advancement of religion and the good of the state; and, indeed, your efforts have shone forth even more, Venerable Brothers, in that you have so readily conformed to Our counsel and wishes. We would also like to mention in particular the beloved son, Desideratus Mercier, the urban

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archpriest, whom you entrusted with the newly founded Thomistic School, and whom We have praised for his excellence in philosophical doctrine and for his efforts in promoting it.

[*Latin ed. p. 654*]

654 LETTERS concerning diligence. For He, in common expectation, both by teaching and by action, responded in such a way that He accomplished enough, so that He has, day by day, increased the frequency and the esteem of the Institute. — Moreover, the extent befitting the College of Louvain, and which is entirely necessary for obtaining the fruits of more refined doctrine, has been arranged according to the prescriptions of the same College, in such a way that, according to Our wishes, the doctrine of Aquinas may exert an influence, even in the physical and natural sciences, and in those studies which are called social, and may impart to them the means both to avoid the errors of the age and to more certainly pursue all progress in truth. For this reason, it is pleasing to us that, as We urged in other letters, the magistracies have been increased; which you yourselves, last year, in a meeting held on the eve of the Kalends of [a month], requested of our beloved sons, Deploige, DeWulf, Nys, and Tfiiéry, men of great learning. And We also consider it provident and opportune that, at the urging of yourselves and with your favor, a certain Seminary has been established, attached to the Institute, for the benefit and protection of those clerics who dedicate themselves to the cultivation of this excellent philosophy; and especially that masters worthy of the sacred Seminaries should be chosen from among its number. Now, indeed, a most illustrious and hopeful undertaking is before us, and We now impose, as it were, a milestone, Venerable Brothers, by again urging and commending it, and by establishing certain things, so that it may better endure for all time and remain to its own honor. — Therefore, We wish that this Institute of Thomistic Philosophy and the Seminary attached to it be regarded, not as something separate from the University, but as a certain integral part pertaining to it; and that it occupy a place which its pontifical origin and the very gravity of the discipline demand. Therefore, its President shall be admitted to the governing council, as they say, with the same rights as the Deans of the Faculties; and the Masters shall be drawn from the existing Faculties of the University, with equal rights, privileges, and the same patronage of the Bishops. Since, moreover, this Institute has a particular purpose and its own distinct functions, We consider it necessary that the Masters should also have separate gatherings, presided over by the President. We grant them the power and the right to determine the degrees in philosophy, the bachelor's degree,

[*Latin ed. p. 655*]

LETTERS 655 granting permission, a degree, and the right to appoint

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a superior in the School of St. Thomas, provided that the approval of the Rector of the University is obtained. — We command that all of these things and each individual item be considered ratified and established, and that nothing be changed in them in the future, without our order or that of our successors. We order that the laws and regulations of the Institute, together with the annexed Seminary, be presented to Us, through the Sacred Council for the regulation of studies, for approval and confirmation. However, we do not doubt that the University of Louvain, whose obedience to Us and to the Apostolic See is testified to by many and excellent things, will, with the same Institute, which is most acceptable to Us, readily and with great zeal offer its support. We hope that both sides, through observance and concord, which are most fitting for establishing and promoting things, will strive for the good of the public, so that honor may be increased and the fruits of the most honest labors may abound. But in this very matter, we have long since seen and are certain that your prudence and work, Venerable Brothers, will be of great help; for the very thing that has been done for the benefit of the students will surely be a source of great joy to the best of patrons. Finally, it remains to express our most heartfelt wish that the Institute, founded by the very Angelic Doctor, whose name and protection it so greatly enjoys, may receive the benign regard of time and grace, that its wisdom and virtues may be illuminated; so that, through its councils, works, and hopes, the Church and the state may prosper. — Added to this is a generous aid from the Apostolic benediction, which We impart to you, Our beloved Son and Venerable Brothers, to the same Institute and to the entire University, together with the clergy and the people entrusted to your care, through our abundant charity. Given in Rome, at St. Peter's, on the 7th day of March, in the year 1894, in the seventeenth year of Our pontificate. LEO XIII, POPE.

[*Latin ed. p. 656*]

656 FROM THE CONSISTORY ACTS. Concerning the Consistory held on May 18, 1894. Address of His Holiness Pope Leo XIII. Venerable Brothers. It is according to the ancient custom and practice that matters concerning the election and filling of positions of Patriarchs among the Eastern Churches are brought before this most august assembly of yours, and are solemnly confirmed by the Pontiff. On this occasion, We are always delighted to remember those Churches, illustrious with so many names, and which We regard with a special sense of charity; and We trust that, from the beginning of Our pontificate, We shall be able to provide greater and greater assistance to the people of the East, with the greatest zeal and effort. — Today, it is pleasing to us to speak of the Church of Antioch of the Syrians. Antioch, once a celebrated and populous city, a metropolis of the entire East, holds a glorious place in the annals of the Church; and within its walls, the first Christians were named, and the Most Blessed Peter

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held the Chair of the priesthood for a time, and was succeeded by noble bishops, among whom was Ignatius, a sower of the seed of the martyrs. — Indeed, the Church of Antioch of the Syrians had been without a Patriarch since the death of the Venerable Brother Ignatius George Schelhot, and for certain reasons of prudence and faith, We had entrusted its administration to the Venerable Brother Cyril Behnam Benni, Archbishop of the Syrian Mission "Sui Iuris" of Mossul. Last year, We granted authority to the Syrian bishops to convene a synod in Mossul for the purpose of electing a Patriarch, and there, on October 12th, they held a meeting in the cathedral. There, with unanimous hearts and minds, they elected the same Venerable Brother Cyril Behnam Benni as Patriarch; and he, following the ancient custom of his predecessors, took the name Ignatius, and received outstanding testimonies of congratulations and respect, both privately and publicly. Afterwards, as was fitting, the suffragan bishops and the elected Patriarch themselves came to Us.

[*Latin ed. p. 657*]

From the Consistorial Acts, 6, having received letters filled with the most devoted obedience, those same individuals have urged us to examine and confirm, with Apostolic authority, the election itself. Having, as is customary, presented to Our Council for consideration the matter concerning the rites of the Orient, and having learned that the Council, having considered the entire matter, wished to implore Us to favorably grant the petition of the Syrians of Antioch, We are not unaware of anything more pleasing to Us than to be able to simultaneously favor the growth and increase of the Church of Antioch, and to declare Our esteem for the virtue of the aforementioned Venerable Fathers. We are confident that, he who, with diligent pastoral solicitude and a will dedicated to the Roman Church, has for more than six years, with praiseworthy examples, and increasingly, with the addition of dignity, defended the cause of religion among his people, will, with God's help, fulfill the duties of a good pastor with ever greater fruitfulness. Therefore, We have considered it fitting to approve and ratify the election and petition of the Venerable Syrian Bishops concerning the Venerable Brother Cyril Behnam Benni, and, having ensured that all impediments which might have hindered the election have been removed, We declare that We approve and ratify him, and We release him from the bond by which he was bound to the Syrian Church of Mossul, and We elevate and promote him to the Patriarchal Church of Antioch of the Syrians, with all the privileges with which his predecessors have been accustomed to be adorned by this Apostolic See, and We constitute and declare him Patriarch of the Syrians, as will be indicated in the aforementioned Consistorial decrees and schedules, notwithstanding any contrary provisions. In the Name of the Father, and of the Son, and of the Holy Spirit. Amen. Thus, having concluded these matters pertaining to the Eastern Church, it

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remains to read, Venerable Brothers, a few names of outstanding men from among your ranks; some of whom are fulfilling their duties in the episcopal office, while others are performing services for this Apostolic See.

[*Latin ed. p. 658*]

658 FROM THE CONSISTORY ACTS, they have demonstrated their virtue, doctrine, prudence, and most devoted spirit to the Church. These are: Andrew Steinhuber, a member of the Society of Jesus, whom the Most Holy Roman Church has created a Cardinal and reserved in pectore [in the heart] at the Consistory held on the sixteenth of January in the year 1893; Giles Mauri, a member of the Dominican Order, Archbishop of Ferrara; Cyriacus Maria Sancha y Hervàs, Archbishop of Valencia in Spain; Dominic Scampa, Bishop of Forlì; Andrew Ferrari, Bishop of Como; Francis Segna, Assessor of the Most Holy Roman and Universal Inquisition. What do you think? Therefore, by the authority of Almighty God, and of the holy Apostles Peter and Paul, and Ours, we publicly proclaim Andrew Steinhuber as Cardinal Deacon of the Most Holy Roman Church. Furthermore, we create and publicly proclaim Giles Mauri, Cyriacus Maria Sancha y Hervàs, Dominic Scampa, Andrew Ferrari, and Francis Segna as Cardinal Priests of the Most Holy Roman Church, with the necessary and appropriate dispensations, derogations, and clauses. In the Name of the Father, and of the Son, and of the Holy Spirit. Amen. After this address, the Most Holy Father proposed the following churches: the Cathedral Church of Sabina, with the abbatial Church of Saint Mary of Farfa annexed to it, vacant due to the death of the Most Reverend Aloysius, while the Most Reverend Cardinal Serafini was still living, as the last Bishop of that See.

[*Latin ed. p. 659*]

FROM THE CONSISTORY ACTS 659

In Usküb, near the Roman court, [a vacancy has occurred] due to the death, and His Most Eminent and Reverend Lord Marius, Titular of Saint Bartholomew on the island of the same name, of the Holy Roman Empire, a Cardinal Priest, is dismissed from that titular office.

The Patriarchal Church of Antioch of the Syrians is vacant due to the death of the Most Reverend Ignatius George Scelliot, the last of that Patriarchs, who died outside the Roman court, with the favor of the Most Reverend Cyril Befmam Beimi, Archbishop of Mausilia of the Syrians, who, having been elected and presented by the Catholic superiors of the same rite in the Syrian Cathedral Church of the Immaculate Conception of the Virgin Mary in Mausilia, presided over the gathering, with the Most Reverend Henry Altmayer, Archbishop of Babylon and Apostolic Delegate in Mesopotamia and other regions, and, following the custom of his prede-

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cessors, assumed the name Ignatius.

The Metropolitan Church of Zagreb is vacant due to the death of the Most Reverend Joseph, while he lived, of Saint Roman Empire, a Cardinal Priest, Mihalovics, the last of that Archbishops, who died outside the Roman court, with the favor of the Most Reverend George Posilovic, Bishop of Senj, to whom is attached the administration of the See of Modruš.

The Metropolitan Church of Bisuntin is vacant due to the death of the Most Reverend Arthur Xavier Ducellier, the last of that Archbishops, who died outside the Roman court, with the favor of the Most Reverend Fulbert Petit, Bishop of Le Puy.

The titular Archiepiscopal Church of Nicaea is vacant, due to the assignment of the title of Saints Nereus and Achilles, made to His Most Eminent and Reverend Lord Aloysius, a Cardinal Priest of the Holy Roman Empire, Galimberti, with the favor of the Most Reverend August Guidi, a Priest of Rome.

He, born of legitimate, Catholic, and honest parents in Rome, having surpassed the fiftieth sixth year of his age, having received a doctoral degree in philosophy and sacred theology, and having served in the functions of philosophy, history, Italian literature, and also moral theology and religion, in all the Gymnasiums, as Censor of the Academy of the Catholic Religion, and having performed the duties of the pious work at Ponte Rupto and the Institute by the pious Masters of Venerina.

Among the Prelates of His Holiness's Domestic Household, he has hitherto been attached to the Abbreviators of Greater Presidency and the Consultants of the Congregation. He has been announced as Pro-Praeses of the Congregation of Secret Studies, the Academy of Noble Ecclesiastics, Examiner of the Roman Clergy, or Pro-Synodal of Portus and Saint Rufina.

The Cathedral Church of Saint Severus is vacant due to the death of the Most Reverend Bernard G-aetani of Aragon, the last of that Bishops, outside the Roman court.

[*Latin ed. p. 660*]

660 FROM THE CONSISTORY ACTS: The curacy of the deceased, favored by the Most Reverend Father Stanislaus de Luca, Bishop of Lucca and Bisignano, is vacant. The Cathedral Church of Auxima and Cingula are perpetually and canonically united. The vacancy arose through the translation of the Most Reverend Father Aegidius Mauri to the See of Ferrara, favored by the Most Reverend Father John Baptist Scotti, Bishop of Cagli and Pergola. The Cathedral Church of Ragusa is vacant, due to the death of the Very Reverend Matthew Vodopic, the last Bishop of that See who died outside the Roman curia, favored by the Most Reverend Father Joseph Marcelic, titular Bishop of Tanis and Apostolic Administrator of Cagli. The Cathedral Church of Anagni is vacant, due to the death of the

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Very Reverend Dominic Pietromarchi, the last Bishop of that See who died outside the Roman curia, favored by the Reverend Father Anthony Sardi, priest of Sulmona. He, born of legitimate, Catholic, and noble parents in Sulmona, and having reached the forty-fifth year of his age, was appointed among the closest chamberlains of His Holiness, and was also appointed as a canon of the Basilica Cathedral of his homeland, and was chosen as a member of the Academy of Arcadia. He had previously resigned from the benefice of the Basilica of the Vatican and from the position of Substitute of the Congregation of Holy Rites. The Cathedral Church of Saint Angel in Vado and Urbania are perpetually and canonically united. The vacancy arose through the death of the Very Reverend John Mary Maioli, the last Bishop of those Sees, who died outside the Roman curia, favored by the Reverend Father Francis Baldassarre, priest of Faenza. He, born of legitimate, Catholic, and honorable parents in Faenza, and having reached the fifty-eighth year of his age, after having taught the precepts of rhetoric, philosophy, and theology in the seminary, was appointed as a canon of the Cathedral Church of Faenza, and was there granted the dignity of Prior, and had previously resigned from the position of General Pro-Vicar in spiritual matters. The Cathedral Church of Cremona is vacant, due to the death of the Very Reverend Francis Sabbia, the last Bishop of that See who died outside the Roman curia, favored by the Most Reverend Father Ernest Fontana, priest of Milan. He, born of legitimate, Catholic, and honorable parents in Milan, and having surpassed the sixty-third year of his age, having completed his studies in the seminaries of his homeland, and there having taught the precepts of literature, philosophy, and theology, and having been initiated into the sacred order of the priesthood, was added to the members of the Roman Academy of Saint Thomas Aquinas, and was chosen as a consultant of the Sacred Congregation of the Index, and had previously resigned from the position of Rector of the Pontifical Seminary of Saints Ambrose and Charles in Rome, and was appointed among the domestic prelates of His Holiness.

[*Latin ed. p. 661*]

FROM THE CONSISTORY ACTS:

The Cathedral Church of Massen is vacant, due to the translation of the Reverend Father Amilcar Tonietti to the See of Ilcinensem, with the favor of the Reverend Aemilius Maria Miniati, a priest of Florence. He, born of legitimate, Catholic, and honorable parents in Florence, having surpassed his fiftieth year, having recently received the doctorate in sacred theology, having served as Prefect of Philosophy in the Archdiocesan seminary, and having been appointed as one of the Examining Pro-Synodal members, having previously been a Canon, and until now the first Penitentiary of the Chapter of Florence, has renounced his position, and upon the vacancy

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of that See, has been elected as the Vicarius Capitularis, and at present, as the General Vicarius for spiritual matters in that place.

The Cathedral Church of Pinerolo is vacant, due to the death of the Reverend Monsignor Giovanni Maria Sardi, the last Bishop of that See, who died outside the Roman Curia, with the favor of the Reverend Giovanni Battista Rossi, a priest of the Archdiocese of Turin. He, born of legitimate, Catholic, and honorable parents in the place called Caballario Maggiore, in the Archdiocese of Turin, and having reached the sixth year beyond his fiftieth, having previously served as a parish priest in Castronovo Astensi in the Archdiocese of Turin, has renounced his position.

The Cathedral Church of Veglen is vacant, due to the death of the Reverend Monsignor Francesco Ferretic, the last Bishop of that See, who died outside the Roman Curia, with the favor of the Reverend Andrea Sterk, a priest of the Diocese of Trieste and Justinopolitana. He, born of legitimate, Catholic, and honorable parents in Volosca, in Istria, in the Diocese of Trieste and Justinopolitana, and having reached his sixty-seventh year, having previously served as a choral Vicar and Cooperator in the Cathedral of Trieste, and as a parish priest in Lausanne, in Istria, and having until now been a Canon Dean and parish priest in the Cathedral of Trieste, has renounced his position.

The Cathedral Church of Anicien is vacant, due to the translation of the Reverend Father Fulberto Petit to the Metropolitan See of Bisuntin, with the favor of the Reverend Constant Louis Marie Guillois, a priest of the Archdiocese of Rennes (-Dol-Saint-Malo). He, born of legitimate, Catholic, and honorable parents in the place now called Mauron, in the Diocese of Vannes, and having for many years served as a Professor, and as Superior, either in the Institute of Saint Vincent, or in the larger seminary of Rennes, and having until now been a titular Canon in the Metropolitan Church, and upon the vacancy of that See, and at present, as the General Vicarius for spiritual matters in the Archdiocese of Rennes.

The Cathedral Church of Aurelian is vacant, due to the promotion of the Reverend Father Peter Hector Coullié to the See of Lugdunum, with the favor of the Reverend...

[*Latin ed. p. 662*]

662 FROM THE CONSISTORY ACTS: Concerning Stanislaus Touchet, a priest of the diocese of Bayeux. He, born of legitimate, Catholic, and honorable parents in the place commonly called Soliers, in the diocese of Bayeux, having surpassed the forty-sixth year of his age, having served as pastor for twenty years in the diocese of Bayeux, and having been appointed a titular canon of that chapter, and then as General Vicar in spiritual matters for the archdiocese of Besançon, and now, as Vicar Capitular there, has resigned. The cathedral church of Poitiers is vacant, due to the death of the Most Reverend Augustine Hubert Juteau, the last

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bishop of that see, who died outside the Roman curia, with the favor of the Most Reverend Henry Pelgé, a priest of Paris. He, born of legitimate, Catholic, and honorable parents in Paris, and having reached the fifty-seventh year of his age, was appointed a parish vicar at Saint Bernard, and, from the Secretariate of the Archiepiscopal curia, and as General Vicar in spiritual matters in Paris, has now resigned. The cathedral church of Poitiers is vacant, due to the translation of the Most Reverend Joseph William Labouré to the metropolitan see of Rennes, with the favor of the Most Reverend Charles Joseph Louis Abel Gilbert, a priest of the diocese of Limoges. He, born of legitimate, Catholic, and honorable parents in the place commonly called Saint-Michel-des-Lions, in the diocese of Limoges, and having reached the forty-fifth year of his age, having been a professor of philosophy, and then a parish priest in the place commonly called Audances, has now resigned as General Vicar in spiritual matters of his diocese. The cathedral church of Ébroïc is vacant, due to the translation of the Most Reverend Francis Hautin to the metropolitan see of Chambéry, with the favor of the Most Reverend Louis Francis Sueur, a priest of the diocese of Arras. He, born of legitimate, Catholic, and honorable parents in the place commonly called Campigneules, in the diocese of Arras, and having reached the fifty-third year of his age, having for many years been General Vicar in spiritual matters of his diocese of Arras, has now resigned. The cathedral church of Constantine is vacant, due to the translation of the Most Reverend Bartholomew Clement Combes to the metropolitan see of Carthage, with the favor of the Most Reverend Louis Henry Julien Laferrière, a priest of the diocese of Beauvais. He, born of legitimate, Catholic, and honorable parents in Paris, and having surpassed the fiftieth year of his age, residing in Rome at the Gallican seminary of Saint Clare, having received the order of the priesthood, and having obtained a bachelor's degree in sacred theology from the university.

[*Latin ed. p. 663*]

FROM THE CONSISTORY ACTS 663:

The Gregorian Society, formerly a professor of philosophy, then chaplain to a convent of nuns and a college of young women, and also a member of the Santonensis Lyceum, and until now a Canon of Rupellensis, has resigned.

The Cathedral Church of Brugensis is vacant, due to the death of the Most Reverend John Joseph Fait, the last Bishop of that See outside of the Roman Curia, with the favor of the Reverend Father Peter of Brabant, a priest of the Diocese of Brugensis, and of His Holiness's Domestic Prelate. He was born of legitimate, Catholic, and honorable parents in the place called Oyghem, in the Diocese of Brugensis, and having reached the sixty-

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sixth year of his age, he had previously attained the degree of Licentiate in Canon Law, having performed the office of General Vicar in spiritual matters for the Diocese of Brugensis, and was until now the Archpriest of that Church, having resigned from that position as Vicar Capitular.

The titular Metropolitan Church, under the Archbishop of Ephesus, is vacant, with the favor of the Reverend Father John Ponzi, a priest of Rome. He was born of legitimate, Catholic, and honorable parents in Rome, and having surpassed the sixty-third year of his age, he was among the students of the esteemed Capranica College, and subsequently served as Vice-Rector and also as Rector, and has been appointed Substitute of the Sacred Congregation of Rites. Having been attached to the innermost chambers of His Holiness, and then among His Domestic Prelates and Abbreviators of greater observance, he has most recently resigned as Canon of the Patriarchal Basilica of Lateran.

The titular Episcopal Church of Arethusin, under the Archbishop of Apamea, is vacant, due to the death of the Most Reverend John Anthony Frederick Baudri, the last Bishop of that See outside of the Roman Curia, with the favor of the Reverend Gallican Morgè, a priest of the Praenestina Diocese. He was born of legitimate, Catholic, and honorable parents in the town of Gallican, in the Praenestina Diocese, and having surpassed the fifty-first year of his age, he taught moral theology and canon law in his diocesan seminary, and performed the duties of Rector and Prefect of Studies there. He has resigned as Examiner pro synodo, Convisitatator, pro-Vicar General, and also as Archdeacon of the Cathedral Church.

The titular Episcopal Church of Benden, under the Archbishop of Dyrrachiensis, is vacant, due to the death of the Most Reverend Anthony of Stefano, the last Bishop of that See outside of the Roman Curia, with the favor of the Reverend Father Francis Uccellini, a priest of the Ragusina Diocese, who has been appointed Apostolic Administrator of the Church of Catharensis. He was born of legitimate,

[*Latin ed. p. 664*]

664 From the acts of consistory, and from honest parents in the island of Mezzo, and in the place commonly called Lopud, in the diocese of Ragusa in Dalmatia, a man, having surpassed the fortieth year of his age, having for many years, and even until now, renounced the priesthood, has been appointed to the titular episcopal see of Paris, under the Archbishop of Cyzicus, vacant by the death of the Most Reverend Marcellino Berardi, the last bishop, who died outside the Roman court, favored by the Reverend Father Claudius Bardel, a priest of the diocese of Clermont. He, having been born of legitimate, Catholic, and honest parents in the place called Thiers in the diocese of Clermont, and having surpassed the forty-third year of his age, while acting as a missionary in his own diocese of Clermont, was chosen by the aforementioned prelate and his court, by the secretaries

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and the general vicar, and is now a canon and general vicar for spiritual matters in the chapter of Bourges, having renounced his previous position. The metropolitan see of Bologna is vacant, by the resignation submitted by the Most Reverend and Most Reverend Lord Seraphino, Cardinal Vannutelli, and his choice for the suburban see of Tusculum, favored by the Reverend Father Dominic, Cardinal Svampa, the Bishop of Forlì. The metropolitan see of Milan is vacant, by the death of the Most Reverend Aloysius Nazari de Calabiana, the last archbishop, who died outside the Roman court, favored by the Reverend Father Andrew, Cardinal Ferrari, the Bishop of Como. The archiepiscopal see of Camerino, to which is annexed the perpetual administration of the episcopal see of Trevi, is vacant, by the death of the Most Reverend Felicissimo Salvini, the last archbishop, who died outside the Roman court, favored by the Reverend Father Coelestino del Frate, the Bishop of Tivoli. The archiepiscopal see of Anio is vacant, by the death of the Most Reverend Francis Maiorsini, the last archpriest, who died outside the Roman court, favored by the Reverend Father Henry de Dominicis, the Bishop of Marsorum. The metropolitan see of Burgen is vacant, by the death of the Most Reverend Emmanuel Gomez-Salazar, the last archbishop, who died outside the Roman court, favored by the Reverend Father Gregory Mariae Aguirre and Garcia, the Bishop of Lugo. The metropolitan see of Saint James of Cuba in South America is vacant, by the translation of the Reverend Father Joseph Maria de Cos.

[*Latin ed. p. 665*]

FROM THE CONSISTORY ACTS 665 and Macho to the Metropolitan See of Matritensem-Complutensem, with the favor of the Most Reverend Father Francis Saenz de TJrturi and Crespo, Bishop of Pacensis. The Cathedral Church of Pacensis is vacant, due to the translation of the Most Reverend Father Francis Saenz de TJrturi and Crespo to the metropolitan See of S. Iacobi de Cuba, with the favor of the Most Reverend Father Raymund Torijos and Gomez, Bishop of Nivariem, or S. Christophori de Laguna. The Cathedral Church of Guadix is vacant, due to the death of the Very Reverend Vincent Pontes and Cantelar, the last Bishop of that See, who died outside the Roman Curia, with the favor of the Most Reverend Father Maximian Fernandez del Rincón and Soto, Bishop of Terulensis, Apostolic Administrator of Albarracinensis. The Cathedral Church of Derthusen is vacant, due to the death of the Very Reverend Francis Aznar and Pueyo, the last Bishop of that See, who died outside the Roman Curia, with the favor of the Reverend Father Peter Rocamora and Garcia, a priest of the diocese of Oriolensis. He, born of legitimate, Catholic, and honorable parents in the place commonly called Granja de Rocamora, in the diocese of Oriolensis, and having surpassed his sixtieth year, having recently received the doctoral degree in sacred theology, having served as a parish priest in several places, and especially in Elche, and having previously been a Canon of the

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Cathedral Chapter of Oriolensis, having renounced the office of Penitentiary. The Cathedral Church of Caurien is vacant, due to the translation of the Most Reverend Father Aloysius Philippi Ortiz and Gutiérrez to the See of Zamorensem, with the favor of the Reverend Father Raymund Peris and Menclieta, a priest of Valentiae. He, born of legitimate, Catholic, and honorable parents in Valentiae, and having surpassed his forty-third year, having recently been awarded the doctoral degree in sacred theology and canon law, having formerly served as a vicariate of the parish church of Cullerà, and having previously been a Canon of the metropolitan church of Valentiae, has renounced that office. The Cathedral Church of Lucen is vacant, due to the translation of the Most Reverend Father Gregory Mariae Aguirre and Garcia to the Metropolitan See of Burgensem, with the favor of the Reverend Father Benedict Munia and Lopez, a priest of the diocese of Matritensis. He, born of legitimate, Catholic, and honorable parents in the place commonly called Algete, in the diocese of Matritensis, and having surpassed his forty-eighth year, having recently received the doctoral degree in sacred theology and canon law, having previously served as a parish priest and treasurer in Ojebas, and later in Castro Urdíales, having been chosen as a predecessor in the Gaditan seminary, and having hitherto held the dignity of Archpriest in the Gaditan Church of that diocese, has renounced the office of General Vicar in spiritual matters of that same diocese.

[*Latin ed. p. 666*]

666 FROM THE CONSISTORY ACTS: The Cathedral Church of Teruel is vacant, due to the translation of the Reverend Father Doctor Maximiano Fernandez del Rincón and Soto to the See of Guadix, with the favor of the Reverend Father Anthony Estalella and Sivilla, a priest of the Diocese of Barcelona. He was born of legitimate, Catholic, and honorable parents in the place commonly called Villafranca del Panades, in the Diocese of Barcelona, and, having reached the fiftieth year of his age, he received the doctoral degree in both laws, having lectured on both laws in Barcelona, and there he was once appointed Provisor, and until now, he has been a Canon, having now resigned. The Cathedral Church of Nivari, or Saint Christopher of Laguna, is vacant, due to the translation of the Reverend Father Raymundo Torrijos and Gomez to the See of Badajoz, with the favor of the Reverend Father Nicholas Rey Redondo, a priest of the Archdiocese of Burgos. He was born of legitimate, Catholic, and honorable parents in the place commonly called Melgar de Fernamental, in the Archdiocese of Burgos, and having surpassed the sixtieth year of his age, he received the doctoral degree in both laws, having served as the General Fiscal of the ecclesiastical courts in the Archdioceses of Toledo and Burgos, and until now, he held the dignity of Treasurer of the Metropolitan Church of Burgos. The titular Episcopal Church of Augustan, under the Archbishop of Tarsus,

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is vacant, with the favor of the Reverend Father Ernest Angiulli, a priest of Naples. He was born of legitimate, Catholic, and honorable parents in Naples, and having reached the forty-fourth year of his age, he served as Director of the Sisters of the Good Shepherd, and was appointed among the Chamberlains of His Holiness for honors outside the city. The titular Episcopal Church of Samien, under the Archbishop of Ephesus, is vacant, due to the translation of the Reverend Father Julius Tonti to the titular Archbishopric of Sardinia, with the favor of the Reverend Father Angel Maria Meraviglia Mantegazza, a priest of Milan, appointed as an Auxiliary to the Most Reverend and Most Reverend Lord Andrea S. R. E., Cardinal Archbishop of Milan, who was born of legitimate, Catholic, and noble parents in Milan, and having surpassed the forty-seventh year of his age, he received the doctoral degree in sacred theology and canon law, and having been appointed by the late Prelate of Milan, either as Pro-Vicar General or as General Vicar, and having passed away in life, the General Vicar Capitular has, until now, resigned. The titular Episcopal Church of Domitopolitan, under the Archbishop of Seleucia, is vacant, due to the death of the Most Reverend Father Adrian Peter Simon, the last Bishop of that see, who died outside the Roman court, with the favor of Father.

[*Latin ed. p. 667*]

FROM THE ACTS OF THE CONSISTORY 667: Joseph Raymond Quesada and Cascon, Presbyters of the Priory of Cluny. Born of legitimate, Catholic, and honorable parents in the city commonly called Almagro, and of the Priory of Cluny, having surpassed the forty-eighth year of his age, having recently received the doctoral degree in sacred theology and canon law, Parish Priest in Daimiel, and having served in other offices, he was appointed Provisor, first to Valencia, and then to Toledo, and has now renounced the dignity of Major Chaplain of the Mozarabic Cathedral of Toledo in the Metropolitan See. The Cathedral Church of Saint Hippolytus is vacant, due to the death of the Most Reverend Matthew Binder, the last Bishop of that See, who died outside the Roman Curia, with the favor of the Reverend John Roessler, a Presbyter of the Diocese of Saint Hippolytus. Born of legitimate, Catholic, and honorable parents in the parish commonly called Schrems, in the Diocese of Saint Hippolytus, and having surpassed the third year after his fortieth year of age, having recently received the doctoral degree in philosophy and sacred theology in Rome, having been devoted to the care of souls for many years, he has been appointed Prefect and Rector of the Episcopal Seminary of sacred theology. He has served as Director of students in the German College in Rome, and then as one of the Examining Pro-Synodal members, and among the Supernumerary Chamberlains of His Holiness, and then as a Canon of the Chapter of Saint Hippolytus. The titular Episcopal Church of Zelen, vacant under the Archbishop of Amaseno, has been assigned,

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with the favor of the Reverend Hermann Joseph Schmitz, a Presbyter of Cologne, also appointed as a Suffragan or Auxiliary Bishop, to the Most Reverend and Right Reverend Philip, of the Sacred Roman Empire, with the title of Saint Chrysogonus, a Cardinal Presbyter, the Archbishop of Cologne. The Reverend Hermann Joseph Schmitz, born of legitimate, Catholic, and honorable parents in Cologne, and having reached his fifty-fourth year of age, having received the doctoral degree in sacred theology and canon law, having served as a Cooperator, has now renounced his office as Parish Priest of the Church of Saint Dionysius in the city of Crefeld in his Archdiocese. The titular Episcopal Church of Neben, vacant under the Archbishop of Bostren, has been assigned, with the favor of the Reverend Frederick Just Knecht, a Presbyter of the Archdiocese of Freiburg, also appointed as an Auxiliary Bishop, to the Most Reverend John Christian Roos, the Archbishop of Freiburg. The Reverend Frederick Just Knecht, born of legitimate, honorable parents in the city commonly called Bruchsal in the Archdiocese of Freiburg, and having reached his fifty-fifth year of age.

[*Latin ed. p. 668*]

668 From the Consistorial Acts, having recently obtained the doctorate in sacred theology, devoted to the care of souls, having served as the Archbishop's Visitor of schools, as an ecclesiastical commissary, as a pro-Synodal examiner, as Director of the Third Order of St. Francis, and as the diocesan president of the work of St. Boniface, he had previously relinquished his position as a Canon of the Metropolitan Church of Friburg. The titular Episcopal See of Basilopolitan is vacant, under the Archbishop of Nicomedia, due to the death of the Very Reverend Monsignor Francis Eugenius Lyons, the last Bishop of that See, who died outside of Rome, favored by His Excellency Charles Schrod, a priest of the diocese of Treves, who was appointed as a suffragan or auxiliary bishop to the Most Reverend Monsignor Michael Felici Komm, the Bishop of Treves. His Excellency Charles Schrod was born of legitimate, Catholic, and honorable parents in the village of Bickendorf, in the diocese of Treves, and having surpassed his fiftieth year of age, he was ordained as a priest in his clerical seminary, and served in various offices in the dioceses of Mechlin, Liège, and Luxembourg; upon returning to his homeland, he served as a professor and as the deputy superior of the same seminary, and later as an advisor to the Bishop, and as a Canon of the Cathedral of Treves, until now. The titular Episcopal See of Amyzonien is vacant, under the Stauropolitan Archbishop, due to the death of the Very Reverend Monsignor Ignatius Ibañez, the last Bishop of that See, who died outside of Rome, favored by His Excellency Pius Caietanus Secundus Stella, a priest of the diocese of Montevideo, who was appointed as an auxiliary bishop to the Most Reverend Monsignor Mariano Soler, the Bishop of

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Montevideo. Reverend Pius Caietanus Secundus Stella, born of legitimate, Catholic, and honorable parents in the village of Paso del Molino, in the diocese of Montevideo, and ordained as a priest in his thirty-seventh year, having joined the students of the Pious College of Latin America in Rome, and there having obtained the doctorate in philosophy and sacred theology, he administered the parish of the Most Holy Virgin of Mount Carmel in the place commonly called Cordon, which he later resigned. In recent times, he served as an ecclesiastical fiscal, and then diligently administered certain rural parishes that were temporarily entrusted to him. The Cathedral Church of Asturica is vacant, due to the death of the Very Reverend Monsignor John Baptist Gran and Vallespinos, the last Bishop of that See, who died outside of Rome, favored by the Reverend Father Vincent Alonso and Salgado, a priest of the diocese of Orense, of the Piarist Schools of Matris Dei. He was born of legitimate, Catholic, and honorable parents in the place of Quiroganes.

[*Latin ed. p. 669*]

FROM THE CONSISTORY ACTS: The diocese of Orense, having reached the sixty-ninth year of its existence, and the forty-ninth year of its age, the Institute of the Piarist Schools of Vigia, having recently received Holy Orders, diligently devoted himself to ecclesiastical duties and, acting as a professor in the theological faculty, showed great eminence. The Cathedral Church of Tudela was vacant, due to the death of the Most Reverend Ferdinand Hie and Gutiérrez, the last of that Bishop who died outside the Roman court, by the favor of the Most Reverend Doctor Valeriano Munendez Conde, Bishop of Tamas. The Cathedral Church of Puerto Rico in North America was vacant, due to the death of the Most Reverend John Anthony Puig and Montserrat, the last of that Bishop who died outside the Roman court, by the favor of the Reverend Doctor Toribio Minguella and Arnedo, of the Virgin of Mercy, a priest of the diocese of Calagurite. He, born of legitimate, Catholic, and honest parents in Ygea, in the diocese of Calagurite, and having surpassed the fiftieth year of his age by eight years, having joined the Order of Discalced Carmelites of Saint Augustine, performed the duties of a Curial official, Commissary of the Procurator, and Provincial Vicar for the Philippine Missions in certain places. The Metropolitan Church of Reims was vacant, due to the death of the Most Reverend Leo Benedict Charles, Cardinal Priest, while alive, Thomas, the last Archbishop of that see, who died outside the Roman court, by the favor of the Most Reverend William Mary Roman Sourrien, Bishop of Châlons. His Holiness, through His Letters in the form of a Brief, declared the following: He transferred the Most Reverend Raphael d'Ambrosio, Archbishop of Atri, to the titular Archiepiscopal Church of Achrida. He elevated the Most Reverend Benjamin Cavicchioni, Archbishop of Amida, to the titular Church of Nazianzus. He resigned the titular Archbishopric

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of Tomitan from the Most Reverend John Baptist Salpointe, Archbishop of the Holy Faith. He appointed the Most Reverend Oton Zardetti, Bishop of Saint Clodoald, as Archbishop for the See of Bucharest. He transferred the Prelate of Belem, of Para, the Most Reverend Jerome Thomé da Silva, to the Metropolitan See of Saint Salvador in Brazil. He appointed the Most Reverend Sebastian as Archbishop of Fluminis Januarius.

[*Latin ed. p. 670*]

670 FROM THE CONSISTORY ACTS: To the Most Reverend Doctor John Ferdinand James Esberard, Bishop of Olinda. The Metropolitan See of Dynachien was conferred upon the Most Reverend Primo Bianchi. The Cathedral of Wayne-Castrum was assigned to the Most Reverend Joseph Rodemacher, Bishop of Nashville. The titular Church of Apollonia was transferred to the Cathedral See of Boise to the Most Reverend Alphonsus Glorieun. For the Cathedral of Olinda, the Prelate was established as the Most Reverend Emmanuel dos Santos Pereira, titular Bishop of Eucarpia. The insignia of Saint Hippolytus were bestowed upon the Most Reverend John Roessler, by His Holiness from the innermost chambers, above the established number. The Bishop of Nichteron was established as the Most Reverend Francis do Rego Moia, Canon of the Chapter of Olinda. To the See of Parahyba, the Most Reverend Adauctum Amelium de Miranda Henriques, Canon of Olinda, was promoted. The See of Curitiba de Pará was assigned to the Most Reverend Joseph de Oamargo Barros, for the Church of Saint Hyginus in the city of São Paulo. To the See of Amazonas, the Most Reverend Joseph Lawrence da Costa Aguiar, Canon of the Chapter of Belém de Pará, was promoted. The Most Reverend Edward Dunne, Rector of the Church of All Saints in the city of Chicago, was appointed Bishop of the Church of Dallas. To the See of Serbroochien, the Most Reverend Paul Stanislaus La Rocque, Canon Penitentiary of Saint Hyacinth, was elevated. The Cathedral of Orach was entrusted to the Most Reverend Henry Wasselon. The Most Reverend William Turnes was appointed Bishop of Candidae Casae. The Most Reverend Henry Ioulain was appointed to the See of Jafn. The Most Reverend Charles Pelvat was appointed Bishop of Nagpur. The Cathedral Church of Hartford was provided for by the Most Reverend Michael Fierney. The See of Wheeling was provided for by the Most Reverend Patricio Donarme. The Most Reverend William Blownlow was constituted Bishop of Clifton. To the See of Albano Laziale in the United States, the Most Reverend Thomas Burke was promoted. The titular Church of Acmonia was entrusted to the Most Reverend Joseph Carroll, as Coadjutor with succession to the Bishop of Shrewsbury. The Most Reverend George Montgomery was constituted Bishop of Thurrita, as Coadjutor to the Bishop of Monterrey and Puebla. The titular Church of Zel was entrusted to the Most Reverend Hermann

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Joseph Schmitz, as Suffragan or Auxiliary to the Archbishop of Cologne.

[*Latin ed. p. 671*]

FROM THE CONSISTORY ACTS 671: The Bishop of Neben was appointed Reverend Frederick Just Knecht as a suffragan or auxiliary bishop to the Archbishop of Freiburg. The Bishop of Trocmadar was appointed Reverend John Maguire, auxiliary bishop to the Archbishop of Glasgow. Reverend Charles Schrod, suffragan or auxiliary bishop to the Bishop of Treves, was promoted to the titular episcopal see of Basilinopolis. The Bishop of Amyzonien was appointed Reverend Pius Caietan Secondo Stella, auxiliary bishop to the Bishop of Montevideo. The Bishop of Selge was appointed Reverend Anthony Mary Joseph TJsse, Apostolic Vicar of Northern Burma. To the titular Church of Calvensis, Bishop Reverend Julian Mary Donaud, Apostolic Vicar of Western Se-China in China, was proposed. Reverend Caesar Schang was appointed Apostolic Vicar of Scian-Tom Oriental in China, and assigned to the titular Church of Vaga. The Bishop of Pinara was appointed Reverend Ezekiel Moreno, of the Order of the Most Holy Exalted Order of St. Augustine. FROM THE HOLY CONGREGATION OF THE COUNCIL OF PARIS. ON THE NULLITY OF MARRIAGE, February 24, 1894, Session 24, Chapter 5, Concerning Reforms, Marriage. SUMMARY OF THE FACTS: Magdalena Deslandes, while being 17 years of age and residing with the nuns of the Most Holy Heart, to whom her father had entrusted her, was destined by her father for marriage to a certain Maurice Fleury. The girl affirmed that she resisted very much, and both the father himself and all the witnesses seem to agree with this; however, due to the threatening authority and violent will of her father, who threatened her with expulsion from the paternal home, with confinement in the monastery, and with making her domestic life intolerable...

[*Latin ed. p. 672*]

672. PARISIEN. She prolonged her dwelling place, and sometimes, as the actress and others assert, she had struck her and threatened her with death; finally, having softened her heart, she said. The civil marriage ceremony was celebrated in Paris on September 13, 1884; the ecclesiastical marriage took place two days later, that is, on September 15 of the year 1884, in the parish church of the Most Holy Trinity, in that same city, after the publication of only one banns, with all other dispensations granted. On the very day that the marriage began, the spouses, following the accepted custom, embarked on a pleasure trip and reached Biarritz, where they stayed for a short time. But not happily. Immediately, discord, quarrels, disputes, and aversion arose. It is asserted that the newlyweds never shared the same bed; but Magdalena, after ten days of cohabitation, and under the insistent pressure of her husband, was forced to perform the marital act only four or five

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times, and she became a mother. This unhappy life, especially for a woman in whom hatred grew daily, continued until the year 1890, when Mauritius went to the lay tribunal, and, alleging that his wife had absolutely and always refused and continued to refuse to fulfill her marital duties, he obtained a decree of separation. The separation of property, however, had already been obtained by Magdalena, since Mauritius had squandered all his possessions. Two years after the separated cohabitation, in the month of November 1892, the woman wrote letters to the Archbishop of Paris, in which she did not declare that her marriage was null and void on any of the grounds of force and fear. The Archbishop of Paris, on November 25 of the same year, delegated a judge to investigate this matter, his general vicar, and also appointed a defender of the bond and an advocate. After they had taken an oath, the delegated judge summoned the actress, her father, her husband, and also eight witnesses presented by them; he also arranged for three others to be heard by the Ordinaries of Cologne and Nice; and after considering the arguments and allegations of the defender of the bond and the actress, he reached a judgment of...

[*Latin ed. p. 673*]

PARISIAN. 673 appeared, and declared that she had entered into no marriage by force or fear. However, when the defender of the marriage invoked the matter, the cause was brought before the Sacred Congregation, and on this day it was proposed, with a doubt written at the bottom. The advocate presented his arguments in five points: and in the first, recalling the persons involved in the cause, he argued in favor of the honesty and credibility of the witnesses; and he noted that, apart from the father and husband of the woman, the witnesses included her sister, the husband, Baron d'Oppenheim, a relative, Joanna Scribot de Bons, a priest, Father Joly, who was a member of the clergy and confessor in the religious house where the woman resided, the superior of that house, the advocate Denormandie, a nephew of the husband, the Countess Malvezzi, and the Marchioness de Tallenay, a friend of the woman, and finally, the chambermaids Maria Pauly and Christina Marner, all of whom are commended by the legitimate testimony of each, their excellent reputation, and their advanced age; therefore, he maintained that, although suspicion should be avoided in the case of witnesses, full faith should be placed in their words. Furthermore, in this case, there are eleven witnesses, to whom the father and husband could be added, all of whom are worthy of belief, and who, with conjecture, that is, with various facts and supporting evidence, testify to the fear. Moreover, all of them are, without exception, of mature age, since neither the sister nor, perhaps, the father could be rejected on any grounds. For in matrimonial causes, relatives are not considered suspicious, according to a clear prescription in chapter V. It seems to us that this is the case, because, as the Rota observes in Farinacci, decree 147, number 10, "domes-

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ticity does not diminish, but rather increases, the credibility of a witness in this matter, due to the presumed knowledge and truth." Then, speaking of the character of Magdalena and her father, the advocate said that all the witnesses affirmed that Magdalena's father had been an honest and religious man; but the DEFENDER OF THE WOMAN, with authority, with the most violent insistence, and with unwavering tenacity in his purpose, said: "Acts, Volume XXVI, page CCCXI, 43.

[*Latin ed. p. 674*]

674. PARISIEN. Si she were contradicted. She loved her daughter not at all and dominated her to the point that the daughter could not contradict her. The paternal grandmother, on the other hand, hated the actress. Conversely, the actress is described as being of good character and endowed with keen intelligence, but she feared her father, by Joan Scribot de Bons, by the Countess Malvezzi, and by her own sister. And all the other witnesses unanimously confirm these words. Indeed, the father of the actress himself is compelled to admit, "She was (the daughter) of a rather timid character, and seemed to fear me." Therefore, from these depositions, it is evident that Magdalene greatly feared her father, as the advocate points out; and for this reason, he turns to the second section of his argument, in which he strives to demonstrate, from the unanimous testimony of the witnesses, the principal reason why the father forced his daughter into marriage with Maurice, which reason is that he "loved her very little, and therefore he desired that she leave his house as soon as possible." Indeed, the actress herself testifies: "The motive of my father was to get rid of me. My grandmother hated me. The reasons of my father were that he no longer wanted to keep me." In the third section of his argument, the advocate first shows that Magdalene had absolutely no affection for Maurice. "Mr. Fleury did not please me... I told (my father) that I did not want to marry. Later, I declared to my father that Mr. Fleury did not please me." The reason for this aversion was: "What shocked me, she says, about Mr. Fleury were his vulgarities, his lack of intelligence, and his stammering." Nevertheless, intimidated by her father and subjected to coercion, she strove to bring about these nuptials. Indeed, the actress herself states: "I have always been afraid of my father. My state of mind at the time that I left the convent made me tremble so much that, when he ordered the marriage, I yielded. He treated me with outrageous words... My father and my father's mother put pressure on me to bring about this marriage. My grandmother hated me." "My father struck me, even threatened me with a pistol, if I did not consent to the marriage, my father de-"

[*Latin ed. p. 675*]

PARISIAN. "In this way, she would obtain greater freedom for herself." The father does not deny that he used coercion towards his daughter; he

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stated: "When she was at the Sacred Heart, the circumstances seemed favorable for me to take responsibility and marry her, before she could escape my authority. She responded that she had a repugnance for marriage, but I paid little attention to her words. Some time later, I presented Monsieur Fleury to my daughter, to whom I imposed this double obligation: either marriage or the convent. My daughter has always declared to me that she did not want to marry. I believe that my daughter did not enter into marriage freely, but that she accepted the marriage as a result of the pressure exerted upon her. Once, I scolded my daughter because she resisted me regarding her marriage." All the witnesses previously cited confirm these same things. The lawyer presents numerous other testimonies to support his claim. Finally, he presents excerpts from two letters that the actress sent to her maternal grandmother, in which, before the marriage, she bitterly complains of the coercion inflicted upon her by her father; and also, an excerpt from another letter sent by the girl's father to the same grandmother, in which he openly confesses that he forced his daughter into the marriage, and completely ridiculed her repugnance. Having presented these facts, the lawyer recalls in the 4th section of his argument what is established in law, namely that consent given under duress is absolutely invalid from the beginning. And rightly so, because since marriage, once valid, is no longer dissoluble, the only remedy to protect individual freedom and to avert the grave injustice that would result is to declare such a marriage, consent given under duress, null and void from the beginning, and to consider the person acting under duress as completely incapable of giving valid matrimonial consent. With this established, it is irrelevant to inquire whether the person felt fear...

[*Latin ed. p. 676*]

676. THE DEFENDANT. She may have spoken the words, but her heart did not consent. Indeed, it is presumed that she did consent; and in this hypothesis, in order to avert an irreparable harm from her and to safeguard the very essence of true liberty, a wise law has established that such a consent, given under duress, is considered null and void from the beginning. Moreover, the advocate observes that, since in marriage not merely a thing is transferred, but the very person and the individual's freedom are given to the other, a greater freedom is required in entering into marriage than in other contracts. Thus, citing various authorities, including Sánchez, *lib. 4, disp. 6, n. 2*, and Consci, *lib. 1, cap. 8, n. 38*, along with the law in the cited chapter concerning marriage, the advocate continues. However, he argues, not every fear is sufficient to invalidate the matrimonial consent; but a grave fear is required, one that is external, unjust, and directly imposed to extort the consent. Furthermore, in the case before us, it is evident that the fear was grave, external, unjust, and directly imposed to extort the consent, the advocate asserts. It is not difficult to prove that the fear was

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grave. Indeed, among the various criteria that jurists propose to determine whether a fear is grave, the esteemed Gasparri, in *De matrimonio, vol. 2, n. 814*, states: "A grave fear, or a serious mental distress, is, in fact, verified when the imminent or future evil is serious for that person, who, moreover, believes that it truly threatens her." Furthermore, the prohibition of visiting her maternal grandmother, whom the actress, orphaned by her mother, loved with fervent affection, the threat of public scandal, of being ejected from her father's home, and of being sent to a monastery, the recalling of the miserable death of her mother, and the threat that she herself would die in the same way; finally, to omit other things, to render domestic cohabitation intolerable – all of these, even considered individually, constitute a grave evil in themselves for a timid girl of seventeen years. And furthermore, considering that the father was a man of stubborn character, proud and imperious, who truly believed he was acting in his daughter's best interest, "if she..."

[*Latin ed. p. 677*]

PARISIAN. "677 forces to marry is for her own good," but the daughter showed resistance with the slightest provocation, and was easily angered if contradicted, and was most tenacious in pursuing her own goals, with threats of evil consequences hanging over her. It cannot be denied that the threatened evils posed a serious danger to the delicate and sensitive Magdalena. For the Marquise de Tallenay, to whom all witnesses agree, stated: "Mr. Deslandes has an iron will and the most violent character... he told me that he was the father and had the right to impose a marriage on his daughter." And therefore, it cannot be maintained that the loss of freedom is a trivial matter; rather, it is absolutely the greatest evil, and not only does right reason, but also the very laws proclaim it, as in *L. Ego puto ff. De his qui vi etc.*, joined with *Rota dec. 374 cor.*, in Ludovisi and Gasparri, *op. cit.*, n. 815. This must be even more evident in the case of a lively and noble young woman, because "the character of the persons must also be considered; for a woman requires less fear than a man." Reiffenstuel, *tit. De his quae vi metusve etc.*, n. 79, and with him, Sánchez, *De matrim.*, Hh. 4, disp. 3, n. 2; Vecchiotti, vol. 3, n. 176, and throughout all. But this is not enough; the advocate strives to demonstrate from the depositions of the plaintiff and the witnesses that even the threat of death was used by the father to extort consent from her. But, leaving aside other matters, the advocate brings to the attention of the court the Instruction of the Most Holy and Universal Church, addressed to the Eastern Bishops, published in the year 1883, which teaches that "the gravity of fear arises from the nature of the threats, from the quality of both those from whom these threats originate, and of those who suffer them"; and then it lists the individual circumstances that are required for the estimation of serious fear, namely, prolonged and persistent harassment, the gravity of the threats,

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such as expulsion from the paternal home, deprivation of inheritance; the authority and persistence of those who threaten, and their prompt anger and violence; and finally, the fragility, inexperience, and temperament of the person suffering: these circumstances, the advocate concludes, are so clearly verified in the case of Magdalena that there is no doubt that she was subjected to serious fear.

[*Latin ed. p. 678*]

678. PARISIEN. But besides a simple and serious fear, it is also maintained that a grave and reverential fear exists in such a case, and that this too can invalidate a marriage. This "reverential fear," according to the common opinion of canonists, primarily arises from the reverence due to parents or superiors; however, they say that this reverence alone, if it is the only factor, is not sufficient to invalidate a marriage. Thus, the speaker, Cardinal D'Annibale, in volume 1, page 104, note 14, states that reverence towards parents, by itself, cannot properly be called a "reverential fear," "because fear is not understood without the danger of some harm." Furthermore, when threats or acts of cruelty come from the parents, a fear is present, not merely reverential, but simply a serious fear. Therefore, reverential fear is properly and uniquely present when one fears the displeasure of a superior, even if there are no beatings or threats. For the displeasure of parents or superiors "is certainly an evil; and if it is grave and prolonged, it is a serious evil, and therefore, a serious fear is not undeservedly considered." Moreover, it is the common opinion of canonists that importunate prayers and entreaties from parents, combined with fear and obedience towards them, constitute a grave fear sufficient to invalidate a marriage. Indeed, Reiffenstuel states this explicitly in *ad tit. De regulant, etc.*, n. 265; and Antoine himself, in his treatise *de Matr.*, chapter 39, 3, n. 7, in response to the question he poses, namely, whether importunate and repeatedly made prayers can instill a fear sufficient to invalidate a marriage, answers: "Affirmatively... if 'these two impulses concur, namely, the authority of the person (praying) and the importunity of the prayers.'" This view is also supported by recent authors such as de Angelis, Santi, Gasparri, Vecchiotti, and others. The opinion of these Doctors, the speaker says, is not only based on reason and equity, but also on a clear disposition of the law. For there is a legal maxim in *L. Velle ff. De reg. iur.*, "that what is desired is not believed when one obeys the command of a father or lord." Therefore, in *L. 1 ff. Quarum rerum actio, § Quae onerandae,* it is declared that...

[*Latin ed. p. 679*]

PARIS. In the year 1679, a promise of liberty was made to the lady, "if it should clearly appear that Ubertum, solely through fear, or through excessive deference to her patron, had so subjected herself." However, according to the lady, the patron proceeded to frighten the girl through his

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authority: "In 1884, my father," the actress stated, who was still residing in the monastery, "ordered me to marry Monsieur Fleury; he never even proposed it to me... I had a repugnance for marriage... I declared to my father that Monsieur Fleury did not please me... I have always been afraid of my father. My state of mind at the time I left the convent made me tremble so much that, when he ordered me to marry, I yielded;" thus, she was frightened by his harsh manner of acting. All of this is confirmed by the testimony of numerous witnesses. To all of these things, if one adds the threats, vexations, authority, and influence of the father, to whose will no one could resist, and the inexperience of the seventeen-year-old girl, it is easily understood, according to the patron, that the liberty required for such a consent was entirely nullified. This is further confirmed in the final section of the petition, where, according to the instructions of the Most Holy and Roman Tribunal of the Inquisition, the events preceding, accompanying, and following the marriage are reviewed. Recalling these individual circumstances coherently, the patron recounts that, while the marriage negotiations were taking place, Magdalen not only did not consent and did not object, but she was often forced. Furthermore, in order to overcome the daughter's repugnance for entering into the marriage, the father, in July of 1884, took her to the same Cologne and brought Maurice there as well. Indeed, the marriage was initiated, since the girl did not have the courage to oppose it, lest she cause further distress to her grandmother, who was already suffering from a heart ailment. However, Magdalen, the patron continues, pleaded with her maternal grandmother and the Marchioness de Tallenay, to dissuade her father from his intention. Indeed, in the waning days of August 1884, she wrote to her grandmother: "Grandmother, is it not possible..."

[*Latin ed. p. 680*]

680. PARISIEN. "Nullement encore, maintenant, empêcher ce mariage détesté! Je sais tout, terrifiée, mais, mon Dieu, rien ne me sauvera! Je vis dans une perpétuelle terreur, d'abord de mon père, puis ensuite de l'avenir." L'orateur observe en outre que Magdalenam Mauritii animum a se alienare omni nisu tentasse, tantôt le recevant froidement, tantôt lui déclarant qu'elle ne pouvait pas l'aimer, et même manifestant ouvertement son aversion envers lui. Ceci, non seulement elle-même et son mari, mais aussi plusieurs témoins l'attestent. La raison pour laquelle le mari, malgré la connaissance de l'aversion de la femme, a voulu l'épouser, est trouvée, selon le défenseur, dans les paroles rapportées par Ioanna Scribot de Bons: "M. le comte Fleury, donné à la passion du jeu, ayant déjà beaucoup perdu et, dit-on, poussé par des dettes, désirait épouser une fille riche et passait par-dessus toute délicatesse et toute considération au sujet de son épouse qui, enfant chétive, non encore formée physiquement, était dépourvue de tout attrait." De plus, l'orateur rappelle que Magdalena, espérant encore

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pouvoir échapper d'une manière ou d'une autre à la contrainte de son père, a demandé et a obtenu de son père qu'il y ait au moins six mois d'intervalle entre les fiançailles et le mariage; mais le père a disposé que, après les fiançailles, le mariage soit contracté le plus rapidement possible. Lorsque tous les efforts se sont avérés vains, Magdalena a proposé de se donner la mort par poison, mais elle a été empêchée par son confesseur. Il est donc juste, affirme le défenseur, que sanctimonialem de Lapeyrouse ait déclaré: "Si, par exemple, son père avait inopinément disparu la veille du mariage, je ne crois pas qu'elle l'eût contracté." Ensuite, relatant ce qui s'est passé le matin même du mariage, l'orateur rappelle les paroles de sa sœur: "Le matin même du mariage, elle était très nerveuse et agacée." Et Maria Pauly rapporte: "J'ai assisté au mariage; elle ne montrait aucune hâte à se préparer; au moment où on la coiffait, elle avait des larmes dans les yeux."

[*Latin ed. p. 681*]

PARISIAN. 681 Her father came to tell her to hurry, that she would be kept waiting. She never wished to sleep with a man in the same room, and as long as she could, she refused to fulfill her conjugal duty; indeed, the conjugal relationship barely existed. Therefore, the advocate concludes, from what has been explained so far, it is clear that Magdalene did everything in her power to avoid fulfilling her conjugal duty, but even if she had agreed without any opposition, it would have made absolutely no difference. Although she considered herself wrongly married due to a lack of consent, nevertheless, she considered herself validly and irrevocably united to the man: "I believed that I was united to Mr. Fleury by a bond of force, against which I could do nothing." It is equally irrelevant if a woman, ignorant of the law, remained in the same house with her husband for several years after being rejected by her parents. For the Sacred Congregation of the Holy Office, in Palermo, on September 30, 1710, issued this peremptory declaration: "The Most Holy Office, having often consulted the interpretations of the Cardinals of the Council of Trent, declares today that a marriage contracted under fear, even if the fear is removed by cohabitation with carnal intercourse and other acts, is not validated, unless it is contracted again, using the same form of that Council." Therefore, in this case, since the marriage was contracted under fear, and yet there was neither a new and legitimate celebration of the marriage, nor a spontaneous cohabitation with knowledge of the nullity of the previous marriage, and the fear had been removed, the advocate argues that Magdalene's cohabitation with Mauritius does not lead to the revalidation of the marriage.

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE BOND. On the other hand, the defender of the marriage bond first notes that the conjugal relationship, although not peaceful, lasted for six years; and the cause for which conjugal harmony vanished, certainly and more certainly, lies

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in those things that Mauritius proclaims: "It was very unequal, like her character; sometimes she was cheerful and lively; sometimes, melancholic." And with one voice, the witnesses, summoned by Magdalene herself, speak of Magdalene. The advocate continues, that Magdalene's fickle nature provided an opportunity...

[*Latin ed. p. 682*]

682. PARISIEN. The Count himself, Mauritius, provided the information, since he had squandered his patrimony in gambling in Aversa. Hear the testimony of Countess Magdalena: "The causes that led to the separation are the bad habits of Mr. Fleury. He had become a gambler, losing all his fortune." Magdalena is corroborated by the Marchioness de Tallenay; therefore, Magdalena brought a legal action for the separation of assets, and a settlement was reached by the civil authorities. These facts are confirmed by the father of the actress. Given these circumstances, Count Mauritius proceeded with the legal separation, which was finalized on November 28, 1889. Magdalena bore this situation with great sorrow, according to her defender, and she declared herself willing to fulfill the marital duties, which she had not adequately performed for many years, that is, "after the birth of the child," as testified by the same Countess's father, who stated: "He [Count Fleury] had promised to resume the common life after a time; he absolutely refused, although my daughter had promised to submit to all the demands of marriage." The Count, however, refused to restore conjugal cohabitation, not because he considered the marriage invalid, but perhaps because he was weary of the difficult nature of his wife, having experienced the challenges of married life. Magdalena, seeking justice for the violation of the sacrament, having seen herself forced to marry, presented a petition to the Most Reverend Archbishop of Paris on November 23, 1892, eight years and more after the celebration of the marriage, and two years after the separation from marital life, stating: "This marriage was not spontaneous and voluntary on the part of the petitioner, who, in fact, was compelled to enter into it by her father, by coercion not only moral, but also physical, as numerous witnesses of all kinds will clearly prove." It is not surprising, says the defender of the bond, that Magdalena was able to foster hope, having presented witnesses chosen by herself, who would demonstrate that she had experienced fear regarding her entry into the marriage with Fleury. In the present case, in addition to what is likely, the woman, in some expressions of sadness, is said to have said, or written to friends, that she was forced into the marriage, which...

[*Latin ed. p. 683*]

PARIS. 683. In a tranquil setting, the matter is discussed, concerning the value of marriage, and therefore it is not a trivial matter. Especially in our times, when the error of considering marriage as dissoluble by mutual con-

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sent of the spouses – due to incompatibility of character, or other frivolous reasons – is rampant, it is distressing to find that witnesses are summoned who, at times, exaggerate the facts, at other times add circumstances that do not exist in reality, and at still other times, omit circumstances that do exist, all the while being more concerned with assisting the plaintiff or defendant than with upholding the sanctity of marriage. A remedy for this situation is prepared if, in addition to the witnesses presented by the plaintiff or defendant, other witnesses are summoned by the court itself. However, the advocate laments that such a law is not currently in effect in this case. In the records of the proceedings, nowhere are witnesses summoned by the court itself. And although the judge states in his judgment: "Having heard the plaintiff and the defendant, as well as the witnesses presented by them," nevertheless, in the records of the proceedings, it is not found that the witnesses presented by Maurice Fleury, or his relatives, were examined, although Magdalena herself testifies that, at a time when there was no suspicion, she stayed in the home of the husband's parents; indeed, the judge omitted to question the Duke de Canrobert and the Count de Rayneval, who were witnesses to the marriage, although their examination would seem to be highly necessary in the present case, in which the validity of the consent given to the marriage is being challenged. However, the defender of the marriage writes that, although when proceedings are conducted in this manner, it becomes almost impossible to defend any marriage, it is not difficult, in the present case, to safeguard the value of the marriage in question. For, according to the true meaning of the instructions of the Most Holy and Sovereign Congregation of the Inquisition, addressed to the Eastern Bishops in the year 1883, article third, concerning impediments, paragraph 37, it is stated: "It must be considered whether the marriage contract was signed freely and without any protestation, and whether any fraud was used to obtain such a signature." Indeed, it is clear that Magdalena Deslandes signed the marriage contract without any protestation.

[*Latin ed. p. 684*]

684. The Parisian [lawyer] declares that the marriage contract was valid and that no fraud was employed in this matter. The first advocate denies that Magdalena was held as a hostage by her father; indeed, the betrothal was initiated two months before the celebration of the marriage, and during that time, Magdalena was not with her father, but in Coloniae Aprippinae, with her mother. From these facts, it is clear not only that Magdalena was not held by her father as if in captivity, but also that he never intended to force Magdalena into marriage. For Magdalena does not allege that her mother coerced her; on the contrary, she states that her mother was only a support to her. Therefore, it would have been unjust if the father, who had always supported his daughter, had intended to force her into marriage, and had chosen a time when she was staying at her mother's house; indeed,

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he would have brought her there for that purpose. However, the tutor of the marriage continues, the betrothal took place in July, the civil contract was signed on the 14th, and the marriage was celebrated on September 15, 1884. During this time, the father never caused Magdalena any fear. Nor did Magdalena offer any indication of resistance during the wedding ceremonies themselves. From the fact that the marriage was celebrated without any protest, the advocate observes that the Sacred Council teaches: "Every presumption must be made in favor of the validity of the marriage, and no consideration should be given to objections, unless they are so strong and effective that they clearly and conclusively demonstrate the alleged nullity." This doctrine is confirmed by the Instruction from the Sacred Congregation of the Holy Office, which states: "In this matter, the judge must know that marriage is, by its very nature, a solemn and public act, which should always be considered valid, unless clear reasons demonstrate its nullity." The defender of the marriage argues that the facts alleged to induce fear cannot invalidate the marriage, because...

[*Latin ed. p. 685*]

PARISIAN. (585) If witnesses, whom the laws prescribe should be examined, were to be brought before the court, they would perhaps demonstrate that she was not estranged from the truth. But, even if such witnesses were to declare nothing new, it cannot be said that the consent of Magdalene to the marriage was in any way coerced. For, in this matter, the father did not expect any advantage for himself or his family to arise from the marriage; indeed, he offered other marriage opportunities to his daughter at the same time. It is, however, to be considered of the greatest importance in such matters, as the citation from the Instruction of the Sacred Congregation of the Holy Roman and Universal Inquisition states: "It must be considered what reason was used to induce [the marriage], lest it be understood that the benefit or honor of one's own home was expected from the marriage." The reason for which Desbandes desired the marriage of his daughter with Maurice is related to us by Albert d'Oppenheim, Magdalene's uncle: "The father sought to hasten the marriage of his daughter because he feared that she would act impulsively, which could have compromised her future." This is confirmed by the pious Maria de Lapeyrouse. Therefore, the advocate argues, the father arranged the marriage of his daughter for a just reason, and he did not exceed the bounds of propriety. For the daughter herself says: "He wanted either the marriage or the convent until the age of 21," and rightly did the father advise this, because Magdalene lacked a mother, and was "of very good heart, but perhaps lacked a certain balance." The actress continues: "My father used blows and threats against me: 'My father struck me, and even threatened me with a pistol if I did not consent to the marriage.'" But she could have avoided the blows and threats once she returned to the gynaeceum. And it was easy for her to return to the

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gynaeceum; indeed, she was again received in the gynaeceum and freely and willingly left the gynaeceum again to refuse Maurice Fleury, the advocate affirms. Therefore, there is no pretext of fear. For, as Sabell says, fear requires that "the one who is afraid cannot easily avert the evils that threaten him; because if he could remedy the evils by some other means, there is no just fear."

[*Latin ed. p. 686*]

686 PARIS. For a young woman, the boasts of her father are rendered null if she returns to the company of women; and she fears where there is no fear: for, as Sabell observes, "one who is fearful should not believe that the evil is about to happen in vain or lightly... indeed, he who inspires fear is accustomed to carry out his threats." It is also falsely alleged that, when she entered into the betrothal, Magdalene said to Mauritius: "My father wants us to be betrothed." For if these words were true, no one could better understand their meaning than Mauritius himself. But Mauritius, even though he desires the dissolution of the marriage, testifies under oath: "If I had known that she was acting only under compulsion from her father, I would have withdrawn. She never told me, 'I do not want you.'" And certainly, Magdalene, "who was not usually timid and fearful," would have declared her aversion to Mauritius without ambiguity, if she did not wish to marry him. Finally, the decisive fact, as stated by the tutor in the records, refutes all objections. Namely: within fifteen days after the marriage, Magdalene conceives; and in the ninth month after the marriage, she gives birth. The Count testifies: "She simply allowed it to happen." Nor does the Countess dare to assert that she was forced, but says: "It was by surprise that a few relations occurred." But no one will believe that a young woman would allow the violation of her virginity and the conception of a child to occur "by surprise." One thing can be admitted: that the Countess may have conceived a child, from which she perhaps recoils, "by surprise." For Christina Marner says: "I learned from her servants that after the birth of the child, she never wanted to know anything more about her husband." With all of these things related from various sources, it is necessary to examine whether the opinion of the archiepiscopal court in the case of *parisiensis* should be upheld or overturned.

RESOLUTION. The Sacred Congregation, after deliberation on the matter, on the 24th [of the month],

[*Latin ed. p. 687*]

PARISIAN. (February 5, 1894, decided to respond: The judgment should be upheld. From which it is gathered: I. In matrimonial causes, consanguineous and family members are not, by law, to be considered as suspects, and because "domesticity does not diminish, but rather increases, the witness's faith in this matter, due to the presumed knowledge and truth." II.

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A grave fear, or mental trepidation, is verified in fact when the impending or future evil is serious for the person who could not easily bear it, and at the same time, that person believes that it truly threatens them. III. Not only does right reason, but also the laws themselves, proclaim the greatest evil to be the loss of liberty; which is more easily experienced by a woman than by a man. IV. The gravity of fear arises from the nature of the threats, from the quality of both those from whom they originate, and of those who are said to suffer them. V. A grave fear is constituted by various circumstances; which are prolonged and persistent harassment, the seriousness of the threats, expulsion from the paternal home, deprivation of inheritance, the authority and persistence of the intimidators, their prompt anger and violence, the fragility and temperament of the one who suffers. VI. In this case, these circumstances were not lacking; and therefore, it seems that a simply grave fear, and a grave reverential fear, by which marriages are annulled, were not lacking; because there were threats, and prolonged indignation and harassment of the parents. VII. Nothing prevents the declaration of the nullity of the marriage if the woman, having suffered fear or reverential fear, and having been repulsed by her parents, has remained in the husband's home for several years, with carnal intercourse; because the marriage is not validated unless it is contracted again, using the Tridentine form."

[*Latin ed. p. 688*]

688 FRIBURG. DOUBTS REGARDING THE APPLICATION OF THE MASS. April 14, 1894. Through summary petitions. The Archbishop of Freiburg granted a certain beneficiary in the parish church of Ueberlingen a small parish of Andelshofen, permitting him to celebrate Mass on feast days in both churches. However, some doubts arose concerning the application of the Masses, and the matter was explained as follows by the Sacred Congregation under the date of January 4, 1894: "Joseph Fhringer, a beneficiary in Ueberlingen, due to the scarcity of priests, with which my diocese has long been afflicted, simultaneously administers the small parish of Andelshofen, not far from Ueberlingen. Therefore, on every Sunday and on every feast day, he must offer the holy Sacrifice of the Mass both in Andelshofen, where the application pertains to the parish entrusted to him, and in Ueberlingen, where he is obliged to celebrate by reason of his benefice; provided that the obligation imposed upon the beneficiary is to assist the parish priest in the care of souls. Indeed, in the foundation of this benefice, the beneficiary was charged with the duty of applying four times per week, that is, on every Sunday and feast day, and in addition on three or two other days of the week, the holy Mass for the founders. "Since, however, it is forbidden by the laws of the Church for priests to celebrate twice, and for them to receive more than one stipend, and also for parish priests and co-pastors to receive a stipend for a second

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Mass, besides that which they offer for the parish; and on the other hand, it is permitted for parish priests and co-pastors who administer two parishes to apply the Mass for both, thus fulfilling the double obligation, the aforementioned beneficiary asks: "1. Whether he can fulfill the obligation imposed upon him as a beneficiary, namely, to apply the Mass for the founders on every Sunday, by means of the second Mass which, besides the parochial Mass offered for the parish of Andelshofen, he celebrates; COMPENDIUM OF THE MATTER.

[*Latin ed. p. 689*]

FRIBURG. (389 « 2. Assuming that this is not permissible, he further inquires whether the application for the benefit of founders, which is assigned to Sundays, should be transferred to another day of the week, or rather, since it has been permitted by the grace of the Holy See to the priests of my archdiocese to receive a stipend for the second Mass if they celebrate two Masses on the same day, provided that they have applied the first Mass for the people or for the intention of the donor, with the condition that they transmit the stipend to the Bishop, to be used for the support and education of candidates for the priesthood – whether, therefore, the beneficiary, of whom we spoke above, should transmit alms to the Bishop for that Mass which he applies for the benefit of the founders, on Sundays and feast days. « 3. And if this latter is required, it is further inquired whether he should give only as much money as is customarily paid for the application of a Mass, as a manual stipend, in the archdiocese of Freiburg. » Synopsis of the Discussion. WHAT APPEARS TO BE OPPOSED TO THE BENEFICIARY. In order to satisfy the Most Reverend Archbishop, the common law and the jurisprudence of the Sacred Congregation of the Council must first be recalled regarding this matter. Benedict XIV, with learned and mature judgment, interprets and explains the common law in the intended manner in the letters addressed to the Bishop of Ascensi, entitled « You Have Declared to Us, » dated March 16, 1746; and the Sacred Congregation of the Council has always followed in his footsteps. Thus, in the *Acta* of the Sacred Congregation of the Council, in the section on « Masses for the People, » in response to Question 2: Whether a parish priest who celebrates two Masses for the people in the same parish on the same day is absolutely obligated to apply both Masses gratuitously to himself, the Sacred Congregation of the Council answered: To Question 2: Negatively; with a firm prohibition against receiving alms for the second Mass. To Question 3: Whether vicars or other priests who do not have the care of souls, if at times they celebrate twice in a day, as sometimes happens, or in order that a sufficient number of Masses may be celebrated in the parish church or in hospitals, *Acta*,

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Vol. XXVI, page 44.

[*Latin ed. p. 690*]

690 FRIBURG. Concerning the question of whether monasteries should offer Mass, and whether they are obligated to offer a Mass for the people free of charge, the response was: in the case of a negative answer, as they do not have the care of souls, the practice in Fermo is always to prohibit the acceptance of alms for a second Mass. The prohibition of accepting a double stipend for the second Mass should be understood in such a way as to exclude even indirect remuneration arising from the satisfaction of an obligation imposed by the legate or from a benefit; as Lemkul, *Theologia Moralis*, vol. II, number marginal g, 216, demonstrates. Furthermore, the Sacred Congregation of the Council, on April 29, 1871, in response to a request from a Spanish bishop, asking whether it would be permissible for parish priests and other priests with the faculty of saying Mass to offer a second Mass for the founders of chantries in order to increase the revenues of such chantries, decided: "As is stated negatively, and in particular cases, recourse should be had to the translation and reduction of Masses, as it may be necessary." Therefore, it would seem that the same response should be given to the bishop of Freiburg, saving, however, his right to offer alms for Masses for his seminary, deducting the same from the revenues of the benefice, taking into account the synodal tax, unless custom or equity demands otherwise.

WHAT SEEMS TO FAVOR THE BENEFICIARY. But on the other hand, there are solid reasons that suggest that the beneficiary may, in this case, be able to obtain revenues corresponding to the offering of the Mass, which he is obligated to celebrate daily on certain feast days according to the foundation charter. Indeed, the wishes of the founders must be religiously observed, as long as it is possible, as decreed by the Council of Trent, Session 22, canon 6, and Session 25, canon 4, concerning endowments. Furthermore, common law dictates that benefits should be conferred without diminution. If, however, the beneficiary is forced to postpone the offering of the Mass to another day, which was imposed on him for a certain day, the will of the founder is offended; but if, after the Mass has been offered, a suitable stipend is deducted, the revenues of the benefice are noticeably diminished. Therefore, in order to avoid both inconveniences, it seems permissible to...

[*Latin ed. p. 691*]

FRIBURGEN. 691 It is permissible to apply a benefice to the celebration of Mass and to derive no income from it. Moreover, in this case, the benefice involves the obligation to assist the parish priest in the care of souls; therefore, the founder stipulated that Mass should be celebrated on feast days for the benefit of the faithful. Indeed, if a parish priest is in charge of two

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parishes, he is obliged to celebrate two Masses for the people, and the income from these Masses is certainly considered in relation to the parish benefice; however, the Sacred Congregation for Bishops has never imposed on such parish priests the obligation to deduct the income from the other Mass, lest they receive a double stipend; for in the Acts of the Congregation, March 12, 1774, in response to the question: "Are parish priests in charge of two churches obliged to celebrate Mass for the people in each church on Sundays, or on other days, or only on feast days?", the response was: "It is permissible to apply the Mass celebrated in one church to the other, for the benefit of the faithful, except in cases of extinction." Rather, from this response of the Sacred Congregation and from another cited in Cameracensis, question 2, a prejudicial question arises: by what right could the Archbishop, in this case, grant the faculty to celebrate two Masses to the beneficiary, and not to the parish priest, when, according to common law, the quality of a parish priest or ordinary pastor, among other conditions, is certainly required. Therefore, the Most Reverend Fathers will prudently deliberate whether, before giving the response to the Archbishop, the faculty of celebrating two Masses granted in this case should be revoked. With these considerations, the question was asked: what response should be given? RESOLUTION The Sacred Congregation, after deliberation on April 1, 1894, decided to respond: "To I. With regard to the foregoing, etc., etc. U.M. for the sake of clarity. To II, for caution, and III, for a period of three years. If, however, for as long as..."

[*Latin ed. p. 692*]

692 MILAN. DISPENSATION FROM IRREGULARITY. April 14, 1894. By summary petition. Caietan Canavesi, a cleric from the archdiocese of Milan, having already completed his philosophical studies, desires to enter the sacred orders, from which he is reluctantly prevented due to a bodily defect. For, having suffered a serious illness a year ago, his left leg was amputated. Therefore, in order that he may at least obtain grace where the law prohibits him, he presented a petition to the Most Holy Congregation, requesting a dispensation from the aforementioned irregularity and permission to be admitted to the orders. Along with the petition, he submitted a testimony from the Reverend Masters of Ceremonies, from which it is gathered that the cleric is able to stand without a crutch, to ascend and descend stairs, to carry the chalice, and to genuflect; however, all of these actions are performed with some difficulty, due to an imperfect orthopedic device; a difficulty which, it is believed, can be overcome with repeated exercise. The matter having been referred to the Sacred Congregation of the Council, letters were sent to the Ordinary, requesting him to report on the petitioner's age, morals, knowledge, and also on the necessity or utility to the Church of his advancement to the sacred orders. The Reverend Vicarius Capitularis diligently satisfied these inquiries: "We inform Your

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Eminence," he wrote, "that the cleric Canavesi is twenty-three years of age, has made sufficient progress in philosophical studies, and is endowed with a sufficient intellect, excellent morals, and a priestly vocation; and we believe that he will be useful to this our Diocese." SUMMARY OF THE CASE. Synopsis of the Discussion. Although, in general, whether a person with a limp or deformity should be considered irregular, and thus whether a dispensation should be granted, is a matter to be determined by the degree of difficulty or deformity, it is traditionally held that this judgment belongs to the Ordinary. IT APPEARS THAT THE GRACE SHOULD BE DENIED.

[*Latin ed. p. 693*]

In Milan, according to Reiffenstiel, lib. 5, Decretales, title 37, § 4, it appears to be undoubtedly irregular for one who cannot walk without a crutch or a wooden leg; *Glossa* in canon, *Si quis in infirmi*; IO, dist. 55; and in canon, *Nullus Episcopus* 57, dist. 1, concerning the consecration of Abbots, in chapter 2, concerning clerics, n. 2; Barbosa, *De officis et potestate Episcopi*, allegation 42, n. 40; Reiffenstiel, *loc. cit.*; Ferraris, *v. Irregularitas*, art. 1, n. 12. Therefore, if the irregularity in the case under consideration were not due to a deformity of gait, according to what the masters of ceremonies report, I would still believe that another cause of irregularity remains, which would arise from such a significant mutilation of the body. I should also note that, according to established legal principles, those with bodily infirmities are excluded from the ministry at the altar; however, in the acts of the Sacred Congregation, one can find several examples of favorable responses to petitions for dispensation from irregularity, arising from one or another significant mutilation of the body, although only three examples of this kind are found that favor the advancement of a mutilated cleric. Indeed, in Milan, on May 5, 1866, in which the very serious case of Paschalis Boccoli, a professed cleric among the Brothers Minor of the Observance, who was requesting dispensation from the irregularity into which he had fallen due to the amputation of his right leg, a decree was issued: that one should petition the Most Holy [Father] for the grace of dispensation, which seems to be granted due to the special circumstances of his religious profession, by which the aforementioned Boccoli, although not yet ordained to the sacred orders, could be considered already promoted, not undeservedly. Similarly, in Bergamo, on September 22, 1866, the prayers of a certain Dominic Colleoni, to whom the left leg had been amputated and who had a wooden leg fabricated, were favorably received, and grace was granted, with the proviso that this case should not be cited as a precedent; therefore, the only example similar to our case is found in Adrian, Dispensation from

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Irregularity, on December 11, 1875, through summary petitions, 3 Um.

[*Latin ed. p. 694*]

694. MILAN. The granting of a dispensation seems permissible. Nevertheless, despite these considerations, it cannot be denied that examples can be cited of those who, although suffering from a bodily defect not entirely dissimilar, but nonetheless less severe, have obtained a dispensation from the Sacred Congregation of the Council. Indeed, in Pamplona, on March 31, 1860, a dispensation was granted to a cleric who was unable to make the sign of the cross with his right hand, nor could he bring the chalice to his lips. Similarly, in Cephalonia, on June 16, 1866, a dispensation was granted to the cleric Joseph Gianni, who was entirely lacking the thumb on his left hand, and more recently, in Novara, on June 27, 1891, although his right thumb was missing one phalanx and his index finger two phalanges; and in Como, on February 27, 1864, a certain Fogli received a rescript, who, "suffering from a perfect ankylosis in his right knee (as stated in the same document), cannot bend it completely, but can perform a genuflection, so to speak, to the middle." Also, see Ausculana, on February 20, 1808, etc. Therefore, it cannot be said that it is foreign to the practice of the Sacred Order to grant a dispensation from an irregularity arising from a serious bodily defect, provided that there is no danger of irreverence, nor is the admiration of the people reasonably to be feared, provided that there are just and legitimate reasons for the dispensation; whether all these conditions are present, it will be for the Most Eminent and Reverend Fathers to decide, based on the letters from the Vicar Capitular and the Master of Ceremonies. However, if it is permissible to suggest something, it should be noted that the defect of Caietani Canavesi, although it may indeed possess a certain gravity, does not, it seems, give cause for irreverence or admiration, as appears to be evident from the words of the Master of Ceremonies. From these observations, it might be deduced that in such a case, one might act regarding a defect that is more material than formal in nature with respect to the irregularity. With these considerations, the question was raised as to what should be answered in prayer. RESOLUTION. The Sacred Congregation of the Council, after discussion on April 14, 1894, decided to respond: "By virtue of [the relevant decree], a dispensation and habilitation for the priesthood are granted until [a specified date]; and let it be written to the Ordinary and brought to his attention."

[*Latin ed. p. 695*]

695 FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS OF ASSISI, CONCERNING PAROCHIAL RIGHTS, dated March 16, 1894. SUMMARY OF FACTS. Within the boundaries of the diocese of Assisi, there formerly existed a monastery, commonly known as the Abbey of Saint Angel of Limisiano, which in the year 1200 was suppressed

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and incorporated into another Abbey, Saint Cross of Saxivivi in Foligno. After various changes, in the year 1500, with the monastery of Limisiano no longer existing, its church, as a Curate Vicariate, had attached to it the care of souls and formed a part of the Abbey of Saint Cross, which, as it no longer had monks, was customarily entrusted to the commendatorship of a Cardinal of the Holy Roman Church. Finally, at the beginning of this century, or approximately in the year 1828, it was united to the Archiepiscopal See of Spoleto, and the Archbishop held the title of Perpetual Commendatory Abbot. It must be stated, however, that the Commendatory Abbot was obligated, among other things, to provide for the proper sustenance of the Curate Vicariate of Limisiano, but also for the maintenance of the church of Saint Angel, both with regard to the worship and the sacred furnishings, and also with regard to the preservation of the buildings; and this was always a matter of agreement between the parties. Thus, in relation to the visitation of said church made by Bishop Camaiori, the Apostolic Visitor of Umbria, in the year 1573, the provisions regarding expenses for worship and maintenance are directed to the Commendatory Abbot, Cardinal Rusticucci. The Abbey of Saxivivi, attached to the See of Spoleto, with all its goods, likewise recognized and fulfilled this obligation by the new titulars for the time being. Only with regard to providing a suitable salary to the Curate Vicariates of Limisiano, was it usually commensurate with the circumstances of the times.

[*Latin ed. p. 696*]

696 ASSISI. While other expenses were entirely the responsibility of the commendatory Abbot, this particular sum was established in the year 1836 at 88 scudi and 50 bai. Subsequently, it was decreed to be divided into five books of 40 scudi each, namely, 372 scudi and 40 bai for the designated purpose; 100 scudi for wood, garden, and other necessities; and 30 scudi for the repair of linens. In this same sum, the Governor was also notified by the current Archbishop of Spoleto as part of the obligations of his table. However, the Archbishop, seizing the opportunity presented by Italian laws that undermine ecclesiastical property and feigning the poverty of his table, rebelled against this obligation, declaring himself exempt from the expenses, and reduced the designated sum to approximately 300 scudi, although he claims to pay 375 scudi, retaining a tax commonly known as "ricchezza mobile" above that amount. Since a friendly resolution could not be reached between the Archbishop, who maintained that he was only obligated to the aforementioned sum due to the favor of the parish priest of Limisiano, and the Bishop of Assisi, who fully defended the rights of the parish priest, the matter necessarily had to be referred to the plenary hearing of the Most Reverend Fathers of the Congregation for Bishops and Regular Canons.

ARGUMENT IN FAVOR OF THE BISHOP OF ASSISI. Here, having es-

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tablished that the obligation concerning the expenses and the designated sum, which falls to the commendatory Abbot due to the favor of the curate of Limisiano, is beyond dispute, not only because it is confirmed by documents or testimonies of the vicars of that church, but also because it is most consonant with reason, since the Abbot benefits from these goods, he will, therefore, refute the arguments presented to the contrary. First, he argues that, according to civil laws, the claim made by the Archbishop, namely that the Government, or rather the Royal Treasury, is obligated for the expenses, is not sustainable, considering that the maintenance of the parish of Limisiano...

[*Latin ed. p. 697*]

ASSISI. The burden placed upon the table of Spoleto necessarily follows, and it is this table, and not others, to which the aforementioned obligation is assigned. The government has made no distinction between parochial, abbatial, and table assets in its calculations, but has included all of them in the total amount reported. To now argue that this is unjust or false, whether in an administrative or legal proceeding, is entirely superfluous, not only because established jurisprudence exists in this matter, but because it is proven by experience itself, as the appeals made by the Archbishop have been without effect. Indeed, the Bishop adds, something detrimental results from the precarious state of the revenues of the table of Spoleto, for, setting aside the fact that the revenues of the table of Assisi are even more meager, this is entirely attributable to the fault of Archbishop Arnold, who submitted reports that were not in accordance with the truth. However, the Vicar of Limisiano should not be prejudiced by this, for it is a well-known legal principle that one should not suffer injustice through another.

Then, turning to describe the miserable state of the parochial house, the church, and the sacristy due to the lack of repairs, the Bishop states that everything is crumbling and, in some places, has even collapsed. In the year 1887, a legal assessment of the necessary repairs was prepared in documents numbered 259, 20, at the order of the Vicar, by the Curate Cappelletti; but the Archbishop refused to implement it: the resulting damages have increased fourfold, and from a new assessment in the year 1890, the amount required for the repairs has risen to 900 livres. Therefore, the Bishop concludes, if the repairs are not carried out immediately, everything will deteriorate further. He also believes that the Archbishop's inadequate and, indeed, burdensome assessment of the necessary funds should be reconsidered. This assessment, which was described in the report of the burdens submitted to the government by the Archbishop of Spoleto, amounted to 372.40 livres, while the actual amount paid was 300 livres. Consequently, the parish priest cannot invoke an exemption from taxes, as provided for by the Italian law of September 13, 1874, which would certainly be beneficial

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if the report had been made accurately, at the amount of 900 livres.

[*Latin ed. p. 698*]

698. ASSESSMENTS. Actually received, namely in the amount of 300, so that while the notification benefits the Archbishop, it burdens the Vicar, who receives only the amount of 281 instead of 300. Following this notification, the parish priest of the place of Collemancio, who for two years has been performing the duties of a chaplain in Limisiano, has been subjected to a sequestration by the tax collector for the amount of 150, due to unpaid taxes, commonly called "manomorta," for five years: and the Bishop, lest he cast the offending parish priest into misery, paid this sum from his own funds, which he now requests to be reimbursed by the Archbishop. Furthermore, the Bishop observes that, after deducting the appropriate amount of 281.76, the Vicar should provide for the celebration of 142 Masses, of which approximately 82 are for the people in Limisiano, and the other 60 are to be offered in the town of Cannara, as well as for the maintenance of the lamp before the Blessed Sacrament and other expenses of worship. For all of these, the Bishop states that, including alms from Masses and the synodal tax, the sum required would be 283: therefore, not only would the appropriate amount be insufficient, but the Vicar would also have to pay 224 from his own funds, without any consideration for the uncertain, insignificant, and, due to their entirely uncertain nature, not to be included in the calculation of the appropriate amount.

FOR THE ARCHBISHOP OF SPOLETO. Here, noting that he does not intend to re-examine the arguments presented against him, he simply adds the following. First of all, he observes that his income, which was formerly very substantial, having exceeded the sum of 75,000, is now, due to the notification carried out by the Archbishop in the amount of 23,000 for the imposition of the tax commonly called "manomorta," so diminished that these deductions reduce his income to 7,500, with which he must provide for the maintenance of the episcopal buildings, both urban and rural, to pay the wages of those in his service, to provide assistance to the Seminary, to the poor, and finally, to pay the annual pension or contribution to the Prince, in the amount of 525.

[*Latin ed. p. 699*]

ASSISI. 699 Furthermore, concerning the Abbey of Saxivivi, he presents a note, in which, although the total revenue amounts to 8,877 florins, after deducting taxes and pensions, it is reduced to an annual net amount of 3,692 florins and 22. Regarding the Vicariate of Limisiano, he notes that it is still not adequately provided for, and observes that the allocation made by the treasury for the proper Vicariate is 375 florins annually. However, the Archbishop continues, it is true that the deceased canon, Giampè, had collected 100 florins for the purpose of providing food and firewood, and

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another 100 florins for sacred furnishings; but the first charge was recognized by the government as a real expense and therefore burdens the owners of the land; as for the second, since it does not appear in the accounts or notes of liquidation, it should not be taken into consideration. Therefore, while the Archbishop is obligated by the government to pay a tax of 219 florins, he is also granted the right to be reimbursed for the pension assigned to the Vicariate of Limisiano. If the assigned amount is insufficient, the government will be obliged to supplement it, and indeed up to 800 florins. Regarding the restoration of buildings, the Archbishop argues that the Royal Treasury is burdened by this expense, and he proves this not only by the example of a certain parish belonging to the Abbey of Saxivivi, for which the Treasury has provided 900 florins for restoration work, but also because the revenue allocated to the parishes of that Abbey is less than the total amount of subsidies provided for the respective parishes. Furthermore, he states, it is unjust to impose upon him the burden of property taxes, because the Vicariate of Limisiano does not own any property; nor should the complaints of the Bishop of Assisi be considered, who claims that while an amount of 372 florins and 40 is declared, only 300 florins are actually paid; for, he replies, even though the payment is made in a larger amount of 300 florins, the Bishop of Assisi cannot escape the fact that he is subject to the tax on movable property, which he pays in 43 florins and 15.

[*Latin ed. p. 700*]

700 ASSISI. Finally, concerning the repeated assessments of 150, made by the Bishop of Assisi, as mentioned above, the Archbishop responded, not without astonishment, that he had already paid this sum, presenting a receipt from the tax collector, which he showed in the records. After both sides had discussed these matters, the following questions were put forward for resolution:

I. Whether and in what sum the Archbishop of Spoleto is obligated to provide for maintenance in this case?

II. By what means should serious, urgent, and extraordinary expenses be met in this case?

III. Whether and in what sum the Archbishop of Spoleto is obligated to provide for a suitable curate in this case?

IV. Whether and how the Bishop of Assisi should be reimbursed for the sum paid for the assessments of 150, for taxes that have already elapsed, commonly called "manomorta," in this case?

RESOLUTION. The Sacred Congregation of Bishops and Regulars, having carefully considered the matter, on March 16, 1894, decided to answer the questions as follows:

To I: Affirmative, in the sum necessary for ordinary maintenance.

To II: Affirmative, with the obligation for the Archbishop to completely

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fulfill such expenses within six months.

To III: Affirmative, in the assessments of three hundred seventy-two and forty, in addition to the assessments of one hundred to be paid to the parish priest for wood and garden, and thirty for repairs to the linen.

To IV: Affirmative, saving the right of the Archbishop to collect the assessments which he himself paid, from whom he has the right to reclaim them.

[*Latin ed. p. 701*]

701 FROM THE SACRED CONGREGATION OF INDULGENCES. Prayer to St. Camillus de Lellis. Brno. The Reverend Father Giovanni Maitis, General Prefect of the Ministers of the Sick, prostrate in homage at the Holy Feet, humbly beseeches Your Holiness to deign to enrich with indulgences the following prayer, in honor of St. Camillus de Lellis, whenever it is recited by the faithful in whatever language it may have been promulgated. Since Your Holiness has deigned to establish the aforementioned Saint as protector of the sick and patron of hospitals, requests are made from all parts of the world for his sacred image, accompanied by a suitable prayer.

Prayer to St. Camillus de Lellis.

Glorious St. Camillus, special protector of the poor sick, who for forty years, with heroic charity, dedicated yourself entirely to alleviating their infirmities, both of body and soul, now, even from heaven, grant them solace, who are entrusted to your powerful protection by the Church. Obtain for them from God healing from the evils from which they suffer, or Christian patience, that they may be made holy and strengthened in the hour of their passing; and at the same time, obtain for us the great grace of living and dying, according to your example, in the practice of divine love. Amen.

Pater and Ave.

(Latin Version)

Most Blessed Father,

Father Giovanni Maitis, General Prefect of the Ministers of the Sick, humbly prostrate at the kiss of the Holy Feet, earnestly implores Your Holiness, that you would deign to enrich with indulgences the following prayers, in honor of St. Camillus de Lellis, whenever they are recited by the faithful, in whatever language. Since Your Holiness has deigned to establish the aforementioned Saint as protector of the sick, and patron of hospitals, requests are made from all parts of the world for his image, which should be accompanied by a suitable prayer.

Prayer to St. Camillus de Lellis.

Glorious St. Camillus, special protector of the poor sick, who for forty years, with heroic charity, gave yourself entirely to healing their infirmities, both of soul and body, now, even more generously, bring them comfort,

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who are now blessed in heaven, and who have been entrusted to your powerful protection by the Church. Obtain for them from God freedom from the evils from which they suffer, or Christian patience, that they may be made holy and strengthened in the hour of their departure; and at the same time, obtain for us the greatest grace of living and dying, according to your example, in the practice of divine love. Amen.

Pater and Ave.

[*Latin ed. p. 702*]

702 FROM THE SACRED CONGREGATION OF INDULGENCES. The Sacred Congregation of Indulgences, making use of the faculties granted to it by the Most Holy Pope Leo XIII, benignly grants to all the Christian faithful, who, with at least a contrite heart and with devotion, shall recite the aforementioned prayer, a plenary Indulgence, twice a year, applicable also to the souls of the departed. This grant is valid forever, without any need for a Brief. In contradiction to anything to the contrary notwithstanding. Given in Rome, from the Secretariat of the same Sacred Congregation, on the 27th of February, 1894. FR. IGNATIUS CARDINAL PERSICO, Prefect. S. f. ALEXANDER, Archbishop of Nicopolis, Secretary, TOLOSANA. Regarding the words in the prayer, "In ego bone et dulcissime Iesu, etc." On the 29th of March, 1894, the Editor of the Ephemeris entitled "La Semaine Religieuse," which is printed in the city of TOLOSANA, states that in the prayer "In ego bone et dulcissime Iesu, etc.," to which a plenary Indulgence is daily granted to those who recite it after receiving Holy Communion before the image of the Crucifix, some words are differently rendered in certain books; in some, it is written: "Quod iam in ore suo ponebat"; in others, as in the collection of prayers of the pious works of the Holy Fathers, published in Rome in the year 1886, it is written "in ore tuo." Therefore, this Sacred Congregation of Indulgences asks: I. Whether it should be said in the aforementioned prayer "ore tuo" (in your mouth) or "suo" (in his mouth)? II. Whether it is indifferent, for obtaining the Indulgence, to say "suo" or "tuo"? And the Sacred Congregation, after considering the doubts, responds: To I. One must adhere entirely to the text of the authentic Collection published in Rome in the year 1886, by decree of this Sacred Congregation on the 24th of May, 1886. To II. As has been provided in I. Given in Rome, from the Secretariat of the same Sacred Congregation, on the 29th of March, 1894. FR. IGNATIUS CARDINAL PERSICO, Prefect. S. f. ALEXANDER, Archbishop of Nicopolis, Secretary.

[*Latin ed. p. 703*]

FROM THE HOLY CONGREGATION OF THE INDEX, on Thursday, the 8th of June, 1894. The Holy Congregation of the Most Eminent and Most Reverend Cardinals of the Holy Roman Church, appointed by the Most Holy Pope Leo XIII and the Holy Apostolic See to oversee the Index

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of books of pernicious doctrine, and their condemnation, suppression, expurgation, and permission throughout the Christian Republic, having met in the Apostolic Palace at the Vatican on the 8th of June, 1894, condemned and condemns, prohibits and forbids, or orders to be included in the Index of Prohibited Books, the following works:

Calamassi, Luigi. — *L'Italia nell'età di mezzo*, divided into two volumes. Vol. 1st, from the ancient age to the Middle Ages. The barbarian domination in Italy. Christianity and the Papacy. Vol. 2nd: Feudalism. The Roman-German Empire and the Papacy. The communes and the Crusades. Città di Castello, S. Lapi, Printer and Publisher, 1890 and 1891.

Calamassi, Luigi. — *Compendium of the History of Italy*, entirely revised. Parts I and III only, that is, The Middle Ages. The modern times. A small work that answers the programs of the gymnasiums and technical schools, very useful as a historical summary in the Normal Schools. G. B. Paravia and Company, 1893 and 1894. Turin, Rome, Milan, Florence, Naples.

Mantegazza, Paolo. — *The Art of Getting a Husband*, as a sequel to *The Art of Getting a Wife*. Milan, Fratelli Trèves Publishers, 1894.

Abbé Pieraccini, Ant., Curate in the diocese of Ajaccio. — *Beyond Life*. Philosophical-theological fragments on the mysteries of the afterlife. Saint Amand (Cher), Société anonyme de l'imprimerie Saini-Joseph, 1892.

Chabauty, E. A., Canon at Mirebeau-du-Poitou (Vienne). *Summary of the System of Renovation*. Poitiers, Typography Oudin and Company. July, August, 1892.

Sabatier, Paul. — *The Life of St. Francis of Assisi*. Paris, Libraire Fischbacher, 1894.

Renan, Ernest. — *History of the People of Israel*. Volume Fourth. Volume Fifth. Paris. Colmann Lévy, Publisher, 1893-1894.

Martínez Caveró, Agostin, Lawyer. — *The Revolution in Law*. Madrid, Imprenta de los hijos de M. G. Hernández, 1893.

To Love and to Suffer, or The Life of the Venerable Mother Saint Therese of Jesus, Abbess of the Monastery of Sainte Claire (of Lavaur), written by herself, arranged and annotated by the Reverend Father Roques.

[*Latin ed. p. 704*]

704 FROM S. C. INDICIS, Archbishop of Lavaur. - Appendix on the life and death of the Reverend Father Roques. - Vol. I. Third Edition. - Toulouse, published by Privat, bookseller, 45 rue des Tourneurs. - Lavaur, Monastery of Sainte Claire, 1886. - Vol. II (as above) - Decree of the Sacred Office, December 4, 1893. Views on the Priesthood and the Priestly Work (with this epigraph: The priest is another Christ. - Extract from the Life of the Most Reverend Mother Saint Therese of Jesus, Abbess of the Monastery of Sainte Claire (Lavaur). Third Edition - Published with the authorization of the Or-

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dinary (Toulouse and Lavaur, as above) 1883 - Decree, same. Therefore, no one of whatever rank or condition, daring to publish, or having published, to read or retain these works, wherever and in whatever language, shall be excused, but they shall be obliged to deliver them to the Ordinaries of the places, or to the Inquisitors of heretical depravity, under the penalties indicated in the Index of Prohibited Books. These matters, having been related to the Most Holy Lord Pope Leo XIII by me, the undersigned S. I. C. from the Secret Archives, His Holiness approved the Decree and ordered it to be promulgated. In witness whereof, etc. Given in Rome on June 9, 1894. Marchese Virginio. - The Reform of the Clergy according to the Council of Trent. - Turin, 1884. Id. - Defense of the book: The Reform of the Clergy according to the Council of Trent. - Turin, 1884. Id. - The Conversion of Protestants through the Council of Trent. - Turin, 1885. Id. - The Catholic Diaconate and the Social Question. - Turin, 1891. - Proscribed. Decree of the Sacred Office, March 8, 1892. - The author commendably submitted and disapproved of the works. Mivart, St. George - Happiness in Hell. (Nineteenth Century). London, December 1892. - and The Happiness in Hell, ibid., February 1893 - and Last Words on the Happiness in Hell, ibid., April 1893. - Proscribed. Decree of the Sacred Office, July 12, 1893. - The author commendably submitted and disapproved of the works.

SERAPHINUS, Bishop of Tusculum.

Card. VANNUTELLI, Prefect.

Fr. Marcolinus Cicognani, Procurator General of the Secret Archives.

Place for the Seal.

On June 12, 1894: I, the aforementioned, witness and testify that the above Decree was affixed and published in the City.

Vincentius Benaglia, Magister Curiae.

[*Latin ed. p. 705*]

705 APOSTOLIC LETTER from His Holiness Pope Leo XIII to the Princes and Peoples of the Universe, on the occasion of his episcopal jubilee. The public and heartfelt testimonies of congratulations, which we received throughout the past year, in memory of the beginning of our episcopate, and which have been particularly abundant in recent times from Spain, above all brought us the fruit of joy, which shone forth in the concord and harmony of wills within the Church, and in the most intimate union of it with the Supreme Pontiff. It seemed as though, during those days, the Catholic world had forgotten all other concerns, fixing its gaze and its thoughts solely on the Vatican. The delegations of princes, the throng of pilgrims, the letters filled with love, the most solemn ceremonies, all clearly demonstrated that all Catholics were united in heart and soul in obedience to the Apostolic See. This event occurred all the more pleasantly and gratefully, as it was entirely in accordance with our plans and endeavors.

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For, throughout our entire pontificate, we have constantly striven, and have endeavored, as far as we could, through teaching and action, to draw all nations and all peoples closer to us, and to make manifest the power of the Roman pontificate for the salvation of all. Therefore, we offer our most heartfelt thanks first of all to the divine benevolence, by whose grace and favor we have reached this age unharmed; and then to the princes, bishops, clergy, and all private individuals, who have contributed in so many ways with their demonstrations of piety and obedience, to honor our person and dignity, and to afford us personal comfort. Although much comfort was indeed received, a great multitude of people, both within and outside the Catholic world, were absent from this expression of joy and devotion, partly because they are entirely ignorant of the Gospel, and partly because, although nominally Christians, they are separated from the Catholic faith. Therefore, we are deeply saddened, and we are saddened: for it is not permissible, without profound sorrow, to consider so large a part of the human race, so far removed from us, as if it were wandering in darkness. — Indeed, when we exercise the functions of the Almighty God on earth, who desires all men to be saved.

[*Latin ed. p. 706*]

706 APOSTOLIC LETTER: That souls may be saved and come to the knowledge of the truth, and since both old age and the sorrows of life urge us towards the end, We have considered it right to imitate the example of our Redeemer, Jesus Christ, who, about to return to the heavenly realm, fervently implored God the Father that our followers and disciples might be one in mind and soul: "I pray that they all may be one, as thou, Father, in me, and I in thee; that they also may be one in us: that the world may believe that thou hast sent me" (1). This divine prayer and supplication encompasses not only those who then believed in Jesus Christ, but also all those who will believe in the future; therefore, We have no hesitation in making Our earnest vows, and in striving, as far as We can, to call and encourage all men, without distinction of race or place, to the divine unity of faith. Urged on by charity, which hastens where the need for help is greatest, Our mind first turns to the most miserable peoples, who have either never received the light of the Gospel, or who, having received it, have suppressed it through negligence and long neglect: and therefore they are ignorant of God and are immersed in the greatest errors. For all salvation comes through Jesus Christ, for there is no other name given under heaven, in which we must be saved (2); therefore, it is Our greatest desire that, through the holy name of Jesus, all the regions of the earth may be quickly filled and replenished. This, indeed, is what We demand of God, and the Church has never neglected this. What has she not labored for during these twenty centuries, what efforts has she not made with a constancy greater than ever, to bring the nations to the truth and the Chris-

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tian institutions? And even today, frequently, the seas are crossed, remote places are progressing, by the authority of Our heralds of the Gospel: and daily We implore God to multiply the number of holy ministers, worthy of the apostolic office, who, if the need arises, will not hesitate to devote themselves to the advancement of the Kingdom of Christ, even at the cost of their own comfort, safety, and even their lives. Therefore, hasten, O Jesus Christ, Savior and Father of the human race: do not delay what You once said You would do, so that, when You are lifted up from the earth, You may draw all things to Yourself.

(1) John 17:20-21.

(2) Acts 4:12.

[*Latin ed. p. 707*]

APOSTOLIC LETTER 707, that I may sometimes remind [you], and show to the infinite multitude the greatest benefits which you have received through your blood, that those who were sitting in darkness and the shadow of death may be enlightened by the rays of your wisdom and virtue, and may be made perfect in one. Considering the sacrament of this unity, we are reminded of the universality of peoples, whom, after long years, divine grace has led from errors to the evangelical wisdom. Nothing is more pleasing for remembrance, nor more glorious for the praise of the most provident God, than the memory of ancient times, when the faith divinely received was a common inheritance and the property of all, when the nations, diverse in languages, places, genius, and customs, although sometimes they warred against each other, nevertheless, in matters of religion, were united by the Christian faith. It grieves the heart that, in later ages, stirred by suspicions and enmities, great and flourishing nations have withdrawn from the Roman Church, a thing which we deplore. However, confident in the mercy and power of Almighty God, who is able to help those who are mature, and who has the power to bend the wills of men to whatever He wills, we turn our attention to those nations, and, with paternal charity, we exhort and implore them to return, laying aside their dissensions, to unity. And first of all, we look to the East, from which the salvation of the whole world originated. Indeed, the hope of our most ardent desire bids us expect that the Eastern Churches, illustrious with ancient faith and glory, will soon return, from which they departed. And even more, if only a few are separated; nay, if we except a few, we agree with the rest, for in the very defenses of the Catholic name, we often find testimonies and arguments drawn from the doctrines, customs, and rites used by the Easterns. The principal head of the disagreement is the primacy of the Roman Pontiff. But let us consider the beginnings, let us see what the ancients thought, what the age nearest to the origins has handed down. Indeed, that divine testimony of Christ, "You are Peter, and upon this rock I will build My Church," clearly stands

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as a confirmation of the Roman pontiffs. And in ancient times, the East itself saw not a few pontiffs, especially Anacletus, Evaristus, Anicetus, Eleutherius, and so on.

[*Latin ed. p. 708*]

708 APOSTOLIC LETTER to Agathon: To many it happened that they dedicated, with abundant blood, the wise and holy administration of the entire Christian republic. It is plainly evident what time, what cause, and by what authors this unhappy discord was aroused. Before that time, when that which God had joined was separated by men, it was held sacred among all the Christian nations of the world. The Apostolic See, and the Roman Pontiff, as the legitimate successor of the blessed Peter, and as the Vicar of Jesus Christ on earth, were obeyed by both the East and the West, with the consent of all. For this reason, if we consider the beginnings of the discord, Photius himself arranged for his envoys to be sent to Rome; and Nicholas, the first Pope, sent his legates from Constantinople to the City, without any opposition, to diligently investigate the cause of Ignatius, the Patriarch, and to report fully and truthfully to the Apostolic See; so that the entire course of history concerning the primacy of the Roman See, which was being disputed, might be openly confirmed. Finally, in the great Councils of Lyons II and Florence, no one denies the supreme power of the Roman Pontiff, which was readily and unanimously affirmed by both Latins and Greeks as dogma. These matters, indeed, we have deliberately recalled, because they are invitations to reconcile peace; and even more, because at this time we seem to perceive a much milder spirit towards Catholics in the East, even a certain inclination of benevolent will. This, in particular, became apparent not long ago, when, drawn by the cause of piety, to the East, we witnessed outstanding examples of human friendship and the most excellent services rendered to us. Therefore, our heart is open to you, all of you, of Greek or other Eastern rite, who are united with the Catholic Church. We greatly desire that each of you should offer to your fathers a prayer full of love and reverence: What will be our answer to God, for having been divided from our brothers, whom He Himself descended from heaven, incarnate and crucified, to unite and to bring back into one fold? Let us not suffer this, most excellent Fathers: let us not have this opinion, let us not advise ourselves and our own so badly. Consider carefully what our requests are, and before God. No human effort, but moved by divine charity and the common pursuit of salvation, we seek reconciliation.

[*Latin ed. p. 709*]

Apostolic Letter 709: We exhort the Roman Church to embrace this union, understanding by "union" a complete and perfect conjunction: for such a union cannot exist without a certain agreement in the dogmas to be believed, and a mutual exchange of fraternal charity. The true union

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among Christians is that which the Author of the Church, Jesus Christ, willed and instituted, consisting in the unity of faith and governance. Let there be no doubt, therefore, that neither We nor Our successors will ever infringe upon your rightful patriarchal privileges, nor upon the customs of each particular Church. For it has been, and it remains, and will forever be, the established policy of the Apostolic See to grant liberally to each people, according to their own origins and customs, for the common good. But truly, when your Churches are restored to communion with us, how much dignity, how much honor, will be added to them by this divine grace! Thus may God hear your own supplication: "Cease, O Lord, the schisms of the churches" (1), and "Gather together the scattered and bring back the wanderers, and unite them in your holy Catholic and Apostolic Church" (2): thus may we be restored to that one and holy faith, which the ancients have handed down to us, just as to you, most steadfastly; which your fathers and ancestors have inviolably preserved; which the very splendor of virtues, the greatness of intellect, and the excellence of doctrine have most brilliantly illustrated, namely Athanasius, Basil, Gregory of Nazianzus, John Chrysostom, both Cyrils, and many other great men, whose glory belongs equally to the East and the West, as a common inheritance. And it is fitting that we should specifically call upon the Slavic peoples, whose renown is attested by many monuments of deeds accomplished. You know how admirably the saints Cyril and Methodius, fathers in the faith, have merited for the Slavs, whose memory We ourselves have endeavored to honor with due reverence in recent years. Through their virtue and labors, much benefit has been brought to many of your people. This has made for a most beautiful exchange of benefits between the Slavs and the Roman pontiffs, and of the most faithful piety. But if the misfortunes of the times have taken away a great part (1) *orate pro nobis* (in the liturgy of St. Basil). (2) *ut colligantur dispersi et reducantur errantes, et uniantur in sancta tua ecclesiâ catholica et apostolica*.

[*Latin ed. p. 710*]

710 APOSTOLIC LETTER: The profession in romana has estranged itself, let us consider how necessary it is to return to unity. Furthermore, the Church continues to offer a multitude of safeguards for salvation, prosperity, and growth. With no less concern, we consider the people whom, in recent times, a certain extraordinary turning of events and circumstances has separated from the Church in romana. Setting aside the various cases of past times, let those who elevate everything above the supernatural, and who with a single desire seek truth and salvation, consider that a Church has been established among them by Christ. And if they wish to hold conferences together, and to determine in what place religion stands, they will readily admit that, in many and most matters, they have strayed from the

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beginnings, and have fallen into various errors; nor will they deny that, as if stripping away the very inheritance of truth, the authors of new things have withdrawn from, or separated themselves from, almost no formula of faith that possesses authority among them. Indeed, it has now come to pass that many do not hesitate to tear away the very foundation upon which all religion and the hope of all mortals rests, namely, the divine nature of our Savior, Jesus Christ. Likewise, those who affirm that the books of the new and old Testaments are written by divine inspiration, deny them no authority whatsoever; and this, given to everyone the power to interpret according to their own judgment, was entirely necessary. Hence, the conscience of each one is the sole guide and rule of action, rejecting any other standard; hence, the conflicts among themselves and the multitude of sects, which often depart from the principles of naturalism or rationalism. Therefore, lacking any agreement of opinions, they now preach and commend the union of fraternal charity. And this is true: for all of us ought to be united in mutual charity. For this is what Jesus Christ commanded, and He willed that this should be the mark of His followers, to love one another. But who can unite souls with perfect charity, if faith does not first bring about concord of minds? Regarding these matters, those of whom we speak, with sound judgment and a love of truth, will certainly seek the Catholic Church, clearly understanding that they cannot be united with Jesus Christ as the head, if they do not adhere to the body, which is the Church; nor can they attain to a sincere faith in Christ, if they reject the legitimate teaching of Christ, which was handed down to Peter and his successors. For indeed, in the Church in romana, the true form of the Church is expressed.

[*Latin ed. p. 711*]

APOSTOLIC LETTER 711. Having considered the matter, and having clearly perceived the will of the Author of all things, We decree: Therefore, many, with keen judgment and a desire to restore antiquity, are counted among those who, by excellent writings, illustrate the continuity of the Roman Church from the Apostles, the integrity of its dogmas, and the constancy of its discipline. Following the example of these men, We urge you, our brothers, who for three centuries have been separated from us in the Christian faith, and also you, whoever you may be, who have departed from us for any reason whatsoever. Let us all come together in the unity of faith and knowledge of the Son of God (1). To this unity, which has never been lacking in the Catholic Church, let no obstacle stand in the way; rather, let us extend our hand in brotherly love. You, the Church, the common mother, calls you back to herself; you, all Catholic brothers, eagerly await that you may, with us, glorify God, united in the profession of one Gospel, one faith, one hope, in perfect charity. For the complete realization of this most desired unity, it remains only that prayers be offered for those throughout the world, for whose salvation We constantly watch and

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think. We understand to be Catholics those who, obedient to the Roman profession of faith, remain united with Jesus Christ. These, indeed, are not to be urged to attain true and holy unity, since they already possess it by the goodness of God; rather, let them be warned lest, under the weight of dangers and through negligence, they corrupt the supreme benefit of salvation. For this purpose, and so that those who are Catholics, whether individually or collectively, may draw from these things the proper guidance for their actions, let them take as their guiding principle, above all, that obedience to the teaching authority of the Church, not narrowly, nor distrustfully, but with all their heart and with a free will, must be rendered in all things. Let them be aware of how harmful it is to the unity of Christians that the German form of worship and the variety of opinions have obscured and destroyed the true faith in many places. For this is a society of imperfect natures, whose office and duty it is to imbue human nature with the precepts and institutions of the Gospel, and to preserve the integrity of morals and the practice of Christian virtues, so that it may lead each individual to that happiness which is proposed to every man in heaven (1).

(1) Ephesians 4:13.

[*Latin ed. p. 712*]

712 APOSTOLIC LETTER: To bring about [a desired outcome]. Since the society [the Church] is, as we have said, perfect, it possesses the power and virtue of life, not drawn from external sources, but derived from the divine plan and inherently present within it: and therefore, it has the authority to enact laws, and in enacting these laws, it seeks to establish the true good for all: and in all other matters pertaining to its jurisdiction, it must act freely. However, this freedom is not of a kind that allows room for envy or malice: for the Church does not pursue power, nor is it driven by any desires, but rather, it seeks, through these means, to protect the duties and virtues of men, and through this path, to promote their eternal salvation. Therefore, it is accustomed to exercise a maternal leniency: indeed, it often happens that, granting more to civil authorities than is due, it refrains from exercising its own rights: which is confirmed by the very pacts made with secular powers.

Nothing is more alien to it than to seize anything from the authority of the state: but, on the contrary, the state must respect the rights of the Church, and must take care not to take anything away from them.

Now, if we consider the present times, we see that the Church has often been viewed with suspicion, met with disdain, and even hated, and that far too many have unjustly accused it, to the point that they force those in authority in the state to serve their own purposes. From this, both the Church and the state suffer harm, and the freedom of the Church is restricted: hence the calumnies directed against the sacred order, the difficulties created for the clergy, the laws enacted with singular severity against

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them, the religious sodalities dissolved and prohibited, the best safeguards of the Christian name suppressed: in short, the laws and decrees of the rulers are more harshly enforced than ever. This is indeed an infringement upon the most sacred rights of the Church: which brings about great evils in the state, because it is openly opposed to the divine plan. For the Prince of princes, the Creator of the world, God, who has most wisely established the sacred authority of both civil and religious institutions, intended that they should remain distinct, but not separated, and that they should not be at odds with each other. For both the will of God and the common good of human society demand that civil power should cooperate with ecclesiastical power. Therefore, both have their own rights and duties, but the two are bound together by a bond of harmony.

Thus, it is necessary that the relationships between the Church and the state should be such that they mutually promote each other, and that the present disturbance, which is not only imprudent but also harmful to all, should cease.

[*Latin ed. p. 713*]

Apostolic Letter 713: They also demand that, without mixing or separating, we render to Caesar the things that are Caesar's, and to God the things that are God's. Similarly, a great evil afflicts men, namely the sect called Masonic, whose pernicious influence has long oppressed, especially, Catholic nations. Taking advantage of turbulent times, and growing insolent with its forces and successes, it strives to establish its dominion more firmly and to extend it more widely for the ruin of all. Already, it has emerged from the shadows and snares, and even in this city, the very heart of the Catholic name, it dares to insult the divine majesty. And what is most calamitous is that wherever it establishes itself, it corrupts all orders and all institutions of the state, and seeks to hold supreme power and judgment. This is indeed calamitous, for its wickedness is manifest in the perversion of opinions and the depravity of its designs. Under the guise of defending human rights and restoring civil society, it attacks the Christian name with hostility: it rejects the doctrines taught by God; it condemns the duties of piety, the divine sacraments, and such things as are most sacred, as superstitious; it seeks to remove the Christian form from marriage, from the family, from the education of youth, from all private and public discipline, and to eradicate all reverence for human and divine power from the hearts of the people. Moreover, it teaches that man should worship nature, and that truth, goodness, and justice should be estimated and guided by the principles of this one [nature]. Thus, as is evident, it compels man to adopt the manners and customs of the pagans, which are far more corrupt. Therefore, although we have already said and emphasized this very gravely, let Apostolic vigilance urge us to insist again and again, warning that in such present danger, there are no precautions too great to be taken. May

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God forbid that such nefarious designs succeed! Let the Christian people, however, understand that it is sometimes necessary to reject the most abominable yoke of this sect, especially the Italians and the French, who are more severely oppressed. We ourselves have already demonstrated the means by which, and with what weapons, they can more effectively resist; and with a leader whose victory is certain, trusting in whose steadfast divine voice: "I have overcome in the world" (1).

(1) John 16:33.

[*Latin ed. p. 714*]

714 APOSTOLIC LETTER: Having repelled both dangers, and restored to the unity of the faith, the Empire and the states would possess a remedy for evils of unparalleled efficacy and an abundance of benefits. It is fitting to address this matter with particular emphasis. First, it pertains to the dignity and function of the Church: which, receiving the due honor, and proceeding on its path, free from envy and fortified by liberty, administers the evangelical truth and grace, and this with singular benefit to the states. For, being both teacher and guide to the human race, divinely appointed, it can especially contribute to the greatest conversions of our time, to the regulation of the common good, to the removal of obstacles, or of the most difficult impediments, and to the promotion of those foundations which are most firm for the well-being of the republic. Furthermore, a most desirable connection between nations would be established, especially at this time, in order to avoid the terrible ravages of war. We have before our eyes the times of Europe. For many years now, more is lived in appearance of peace than in reality. With mutual suspicions lurking, almost all nations are striving to equip themselves for war. The imprudent youth, far from the counsel and instruction of their parents, are endangered in military life: the most vigorous youth, who should be cultivating their minds, acquiring knowledge, and mastering the arts, are turned to the art of war. From this, the treasuries are exhausted by immense expenses, the resources of the states are diminished, and the fortunes of individuals are afflicted: and this state of affairs, which now exists, can scarcely be maintained for much longer. Is the civil union of men a natural state? But from this, and to attain true peace, we cannot achieve it without the benefit of Jesus Christ. For, to restrain ambition, the desire for what belongs to others, and envy, which are the greatest causes of war, nothing is more suitable than Christian virtue and supreme justice: by means of which, the laws of nations and the bonds of religion can remain intact, and the ties of humanity can remain firmly established; and I am persuaded: Justice exalts a nation (1). Furthermore, within the home, it provides a much more certain and effective safeguard for public safety than that which is provided by laws and arms. For, if anyone does not see it, the dangers to public safety and tranquility are

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increasing daily, as seditious sects grow, which (1) PROVERBS XIV:34.

[*Latin ed. p. 715*]

The Apostolic Letter 715 frequently testifies to the atrocity of deeds, to conspiracies and the overthrow of cities. Indeed, a great contention and agitation arises from two causes, which are called social and political. Both are certainly very serious matters, and both must be addressed wisely and justly, although commendable studies, temperances, and experiments may be undertaken. However, nothing else has proven more opportune than if the sentiments and the rule of duty are formed from the interior principle of Christian faith.

Concerning the social cause, we have treated this matter not long ago, based on principles derived from the Gospel and from natural reason. Regarding the political cause, the reconciliation of liberty with authority, which many confuse and improperly separate, can be derived from Christian philosophy with great benefit. For, given that, and with the approval of all, whatever form the republic may take, it derives its authority from God; therefore, reason clearly shows that it is legitimate for others to command, and it is fitting for others to obey, and it is not contrary to dignity, because obedience is due to God more than to men; and yet, God has proclaimed a most severe judgment against those who govern, unless they conduct themselves rightly and justly. Furthermore, the liberty of individuals cannot be suspected or disapproved of by anyone, because no one, when acting innocently, will act contrary to what is true, what is right, or what is conducive to public tranquility.

Finally, if we consider what the Church, as a parent and conciliator, can do to help both peoples and rulers, through its authority and counsel, it will become most apparent how much it is in the common interest that all peoples should be led to embrace and profess the same Christian faith. When we consider these things and desire them with all our heart, we can foresee how great would be the progress and prosperity of all nations, established in tranquility and leisure, encouraged to advance in learning, and furthered in Christian manners, according to the prescriptions that We have laid down for farmers, artisans, and industrialists, through whose efforts usury can be restrained and the field of useful labor expanded. The power of these benefits, which is not limited by the boundaries of human and civilized nations, but flows far and wide, like an abundant river. It is to be considered,

[*Latin ed. p. 716*]

716 APOSTOLIC LETTER: As we have stated from the beginning, the multitude of nations, with their countless cults and ages, must receive the light of truth and of humanity. Certainly, with regard to the eternal salvation of peoples, the plans of the Divine Providence are exceedingly long,

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far beyond the grasp of human understanding. However, no scourge of the earth has yet been so unhappy and widespread as the superstition that is still prevalent, and this is due, to no small extent, to the dissensions within religion. For, as far as mortal reason can judge from the course of events, it appears that Europe has been assigned by God the task of gradually spreading the Christian faith and humanity to all lands. The beginnings and progress of this great work, through the labors of past ages, were proceeding with joyful growth, when suddenly, in the sixteenth century, discord arose. Through disputes and dissensions under the name of Christianity, Europe was weakened by contentions and wars, and felt the destructive force of the times. Given the causes of discord, what is surprising if so large a portion of humanity is bound by inhuman and perverse customs? Therefore, let us all strive to restore concord, for the sake of the common good. Eagerly do we await the opportune times for the reconciliation of concord, and for the widespread dissemination of the benefits of Christian wisdom, because the sense of human brotherhood has never penetrated so deeply into the hearts of men, nor has any age been so eager to inquire into, to know, and to help one another. The vast oceans of the earth are traversed by incredible means of transport by land and sea; these offer extraordinary benefits, not only for commerce and the curiosity of ingenious minds, but also for the widespread dissemination of the Word of God, from the rising of the sun to its setting. We are not unaware of the length and difficulty of the work that we desire to restore; nor will there perhaps be lacking those who will judge us to be indulging in vain hopes, and who will desire more to hope than to seek. But we, for our part, place all our hope and complete trust in the Savior of the human race, Jesus Christ, who will confound the wisdom of this world, which is blinded and confused, and the memories of those things that were once treated with contempt and derision, both because of the foolishness of the Cross and of His preaching. We earnestly beseech princes and rulers of nations, that they may, with due consideration for their civil prudence and for the care of their faithful people, examine our proposals with truth, and that they may foster them with their authority and grace. Whatever fruit may result, it will be of no small benefit to the place where it is applied.

[*Latin ed. p. 717*]

APOSTOLIC LETTER: With the inclination of all, when the impatience of the present times is joined with the anxieties of the future. The end of the last century left Europe exhausted by calamities and trembling with disturbances. This age, which hastens towards its conclusion, may it, on the contrary, transmit to the human race the hopes of concord, along with the greatest of goods, which are contained in the unity of the Christian faith. May God, rich in mercy, grant what We desire and pray for, and may He most benignly fulfill that divine promise of Jesus Christ: "There

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shall be one flock and one shepherd" (1). Given at Rome, near St. Peter, on the twentieth day of June, in the seventeenth year of Our pontificate. LEO XIII, POPE. FROM THE MOST EXCELLENT CONGREGATION OF THE COUNCIL OF AQUILANA, February 24, 1894. Session 24, Chapter 18, Concerning Reforms. SUMMARY OF FACTS. The city of Aquila arose from surrounding towns, after the destruction of Amiterni and Furconii, seeking in common habitation and location refuge and defense, so that the individual villages of the new city were assigned to individual districts, almost as many as there were churches, squares, fountains, and other similar structures, in which the inhabitants of the city were located, and with the remaining inhabitants still in the towns, they were joined by a certain law and agreement, as if a colony. (1) John 10:16.

[*Latin ed. p. 718*]

718 In AQUILANA, it is reported that there existed, and still exist, two districts called "Paganica," one within the city and one outside. The clergy of Paganica were located near the ancient seat; hence, a dispute arose before the Sacred Congregation of Councils concerning whether the Archpriest should reside in the church located outside the city. However, it was decided that the Archpriest, along with the Chapter, should reside in the church located within the city, as reported by Garz, *De Beneficiis*, part 3, no. 179, in declaration 15; and Barbosa, *De Parocho*, p. 1, chapter 8, no. 10. Furthermore, it was stipulated concerning the church located outside the city that a curate should be retained, along with several resident chaplains, devoted to that place. In the year 1599, Bishop Joseph De Rubeis, who had been elected, in order to implement Constitution 47 of St. Pius V, established a permanent curacy in the church of Paganica located outside the city in the year 1600, assigning to it a suitable annual stipend of 50 ducats. Disputes had already arisen between the curate and the Chapter concerning precedence in functions and processions within the church located outside the city, when members of the Chapter or someone from the Chapter presented themselves in the church of Paganica located outside the city. These controversies were formally presented to the Sacred Congregation of Councils on September 2, 1728, under three questions: first, whether it pertained to the curate of the church located outside the city, or rather to the Archpriest, Canons, and Chaplains of the church located within the city, as individuals, to celebrate Mass on solemn days; second, whether it pertained to the curate of the church located outside the city, or rather to the Archpriest, Canons, and Chaplains of the church located within the city, as individuals, to wear the stole and precede in funeral processions, Rogation processions, and other processions; third, whether the functions of blessings and administering the sacraments could be performed by the aforementioned curate, or rather by the chaplains located outside the city, as well as by the Archpriest, Canons, and Chaplains located within the

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city, either individually or collectively, while they are present, excluding the curate in such cases. The response, favoring the curate, was affirmative concerning all questions regarding the first point, and negative concerning the second.

[*Latin ed. p. 719*]

AQUILANA, 719. The Chapter of the Pagan Church did not obtain its desired outcome, nor did the chaplains of the Church, who had seen the appointed Vicar diligently fulfilling his duties in all things. And having obtained a new hearing, the cause was again presented in a Congregation held on March 10th of the year 1731; but, due to more serious difficulties arising from various sides, the decision was: "Postponed; and it was referred to the Most Eminent Lord B, who will deign to examine the matter and to present his opinion to the Holy Congregation, after hearing both sides." With perspicacity, and a wealth of doctrine, and with the maturity of judgment, the Most Reverend Belluga presented his opinion, amending the decisions of the Congregation; but the Holy Congregation, under the date of September 22nd of the year 1731, adopted it, writing: "The Holy Congregation of Extraordinary Holy Roman Ecclesiastical Cardinals, interpreting the Council of Trent, judged that the aforementioned opinion of the Most Reverend Cardinal Belluga should be observed in all respects, and that this matter should not be presented again." In order that the force of this decision may be more clearly understood, we refer to that part of the opinion of the Most Reverend Belluga, which more directly concerns this question: "Question I. Whether one should adhere to, or depart from, the decisions made on September 1st, 1728." "The three doubts proposed on the aforementioned day, September 11th, were: First: Whether, on any of the more solemn festivals of the year, the Vicar can celebrate the greater Mass in the Church of Saint Aluria, outside the city, or rather, whether it is permissible for the Canon and chaplains of the Church, inside the city, to do so, individually, while they are present, excluding the aforementioned Vicar in such a case, etc. To which was given the response: Affirmative with regard to the first part, negative with regard to the second part; but I am of the opinion that one should depart from this resolution, and that on the more solemn days, the singing of the Mass pertains to the Archpriest and Canons, even if they are present individually, but in their absence, it pertains to the one who is of the week, whether he is the Vicar Curate or a chaplain." "Indeed, with regard to the first part, this Church, outside the city, is dependent on the Collegiate Church inside the city, and the chaplains, and the Vicar Curate, residing in the same Church outside the city, and..."

[*Latin ed. p. 720*]

720 In AQUILANA, twenty individuals participate daily in the services

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of the choir, drawn from the same Mass as the Canons and Chaplains from within, and if they go to the city of Aquilae, they are admitted to the choir of the Collegiate Church of S. Maria de Paganica, and they participate in the revenues of that Church according to their seniority, and conversely, the same is observed with the Canons and Chaplains of the Church from within who go to the Church from outside, as reported by the Most Reverend Prelate, and witnesses from the Chapter testify, and thus, whenever a Canon is found in the Church from outside, he must, according to the resolutions of the Sacred Congregation in Gerunden, concerning functions, of February 11, 1602: in the archives, document number 26, of September 1682, reported by Scarfanton to Ceccoper, Book 2, title 13, paragraphs 9 and 11. "Especially considering the preservation of rights made in favor of the Chapter in the erection of this Vicariate, that is, all the privileges and prerogatives previously belonging to it. And since this undoubtedly belonged to the Archpriest and the Canons previously, therefore, this right must also belong to them today." "In the absence of the Archpriest or the Canons, I believe that the week should be observed between the Vicar and the Chaplains, because with regard to these choral functions, such as singing Mass, neither the Chaplains exceed the Vicar, nor does the Vicar exceed the Chaplains; and the Vicar, in these functions, does not proceed as a Parochial Vicar, but as one of the Chaplains. For all are equally devoted to the service of the choir, and they participate in the same Mass, and these choral functions pertain to all indiscriminately: from Rubellus apud Gratian, Disceptationes, Concerning, chapter 298, number 40; Panimoll. Decisions, 1, note 9, number 27; Ceccoper, Lucubrationes Canonicae, Book 3, title 1, paragraphs 2 and following; Scarfanton, to the same book, 1, title 8, number 21; Rotulus in Maioricen, Vicariae, June 10, 1698, before Muto." "Doubt II. Whether in processions, funerals, Rogations, and others that are held in the territory of Paganica, the Vicar can precede and wear the stole, or rather, whether this is permitted to both the Canons..."

[*Latin ed. p. 721*]

"In L'Aquila, 721 nests [referring to a specific local custom or legal arrangement], it was determined that chaplains from outside, as well as the archpriest, canons, and chaplains from within, should be excluded, except for the same vicar." "To this question, an affirmative answer was given regarding the first part, and a negative answer regarding the second. I also share this opinion, but with the following modification. Indeed, since the question concerns both processions with the pallium and those without, I believe that the resolution of the Holy Congregation should be maintained regarding funerals, in which the presentation of the stole is a matter of parochial rights, Samuel concerning burials, book 1, dispute 3, chapter 7, number 9. Caponius, disputations, book 4, number 9. Panimoll, decrees, book 1, note 10, number 10. Pignatelli, opinions, 73, number 21, volume 8.

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Monacellus, legal forms, volume 1, title 13, form 1, number 77, according to the disposition of the Ritual, title concerning funerals, against which there is no discernible custom, and therefore pertains to the vicar who has a private right to the archpriest, canons, and chaplains, exercising the full and actual care of souls. Because when a vicar is appointed permanently in a certain place, the full and actual exercise of the care of souls passes to him, in which he can no longer interfere, while the habitual care remains with him, in contrast to the case in which the vicar would be removable and not permanent, as Vitalinus explains in Clement, section L, number 26, concerning prebends. Gonzalvus, concerning the royal chancery, 8, gloss 6, number 99. Fermosinus, concerning the office of the vicar, question 1, number 30. Loter, concerning benefices, book 1, question 33, number 3. Azorius, moral institutions, page 2, Hh, chapter 6, number 31. Laurentius, concerning benefices, question 132, number 3. Piringh, concerning canon law, book 1, title 28, section 2, number 15. Vanespen, concerning canon law of the Church, page 2j, title 34, number 26, 28. For this reason, because the permanent vicar, although properly not the rector of the church, is nevertheless the rector of the care of souls, as explained by Vitalinus in Clement, 5, concerning the office of the vicar, 24. Gonzalvus, concerning the royal chancery, 8, gloss 5, section 3, number 22. Barbosus, concerning ecclesiastical law, book 3, chapter 6, number 29. Fermosinus, concerning the title and rubric of the office of the vicar, question 1, number 1." "However, when the question explicitly concerns the archpriest, volume XXVI, page OOOXII, 46."

[*Latin ed. p. 722*]

In AQUILANA, and to the Canons, both individually and those not forming a body, and it must be understood that, in order to properly present the stole, according to the aforementioned stipulations to the Vicar, it is understood that they should yield precedence to him, as individuals participating in these funeral processions, according to the declaration. Congregation of Rites, November 20, 1603, cited by Barbosa De canonie, chapter 18, number 63; Panimoll. decisions, book 1, note 9, number 25; Ceccoper. book 1, title 15, numbers 28 and 29; therefore, the resolution of the Holy Congregation in this matter must be upheld, speaking of these funeral processions, in which the Canons, as individuals, must give precedence to the Vicar carrying the stole, and a fortiori, to the chaplains.

"Especially because in the foundation of this Vicariate, it is stipulated that when the Vicar proceeds with the stole, as the Curate of the Church, he must precede the Canons, and those serving the Church from outside, which is properly understood when Canons from outside the Church, whether because they reside in a pagan land, or because they happen to be present in that place, participate as individuals in funerals, because they have never been in the Church, nor are they part of a collegiate

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body, and therefore, in accordance with the terms of the foundation, they must yield place to the Vicar, carrying the stole in funeral processions, in which, by reason of their office, and as the Church Curate carries the stole according to the disposition of the Ritual, which is the case referred to in the aforementioned foundation."

"However, with regard to other processions, which are not funeral, because they are not matters of parochial rights, but are parts of the Divine Office, and are subject to the obligation of public recitation, for which reason distributions are assigned: Monet, on distributions, page 2, question 3, number 4; Oavant. in manual. Epis. Verb. Processio number 28; Ceccop. Lucubr. Camion. Book 2, title 17, numbers 21 and following; therefore, it is not to the Vicar Curate, but to the hebdomadarius, who carries the first figure in the choir, that the stole should be given, and he should hold the first place in them, since the processions are said by the choir, and according to the precedence observed in the choir, the individuals proceed among themselves in them."

[*Latin ed. p. 723*]

AQUILANA, 723 present. Pignatelli, *Consilia*, 97 > n. 1, vol. 7. D. Advocat. Ursaia, vol. 5, *Disputationes*, 18, no. 55. « If the Archpriest, or any Canon, did not participate in these non-funeral processions, then I believe that the right to wear the stole belongs to them, as they wish, and consequently, they should have precedence; and this is consistent with the aforementioned instrument of the establishment of this Vicariate, in which the favors, privileges, and dignities of the Archpriest, Canons, and Chapter are preserved, with which they have until now used in the same Church of Paganica, and thus in matters not pertaining to the care of souls, which they have fully transferred to the permanent Vicar, these processions, which are not funeral, should rightfully belong to them, with the right to participate wearing the stole and with precedence, as they wish. The Vicar, however, in these processions, should have no other role than that of one of the chaplains, in his own week, wearing the stole, and he will obtain precedence. » « Question III. Can the functions of blessings, the publication of Indulgences, and the distribution of Holy Communion be performed by the Vicar, or rather, by Canons and chaplains from outside, as well as by the Archpriest, Canons, and chaplains from within, either individually or collectively, while the Vicar is present? To which was given an affirmative answer regarding the first part, and a negative answer regarding the second. » « For the Vicar demonstrated in his proposal of the year 1728, no. 4, the custom of performing the blessings of the spouses, the fields, and the baptismal font, as well as of publishing Indulgences and Excommunications, all of which pertain to the Parish Priest. And indeed, the blessings of the spouses are among the rights of the Parish Priest, as Barbos states, *De Parochiis*, p. 1, chapter 12, no. 6, and others cited by

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him; the blessings of the fields pertain to the Parish Priest, as declared by the Sacred Congregation in 1666, as cited by Pignatelli, *Consilia*, 74, no. 11, ad 6, vol. 6. The blessing of the baptismal font also pertains to him, as Barbos states in the aforementioned place, no. 2. Fermosin, in Chapter 2, on Offices.

[*Latin ed. p. 724*]

724 AQUILANA, Archpriest. See Lezana, *Summa quaestionum regularum*, Book 1, Chapter 12, paragraph 41. Also, the sprinkling of houses with blessed water on Holy Saturday. See Barbos, *De Officiis Parochi*, page 1, Chapter 12, numbers 11 and 12. Fermosin, *Ad cap. 2. de Officiis Archipresbyterorum*, question 2, paragraphs 74 and 75. And the Holy See, in this Congregation, is found in Lezana, Volume 1, Chapter 1, paragraph 41, as well as the blessing to be performed over the deceased before they are removed from their homes, which is also a matter of parochial rights, as stated in Lezana, *Summa quaestionum regularum*, verb. Praedictio, number 18. Barbos, *De Parochi*, page 3, Chapter 26, number 80. Passerin, *De Statutis Romanis*, question 187, article 4, number 162. And thus, all these blessings are to be reserved to the Vicar Parochial."

"But other blessings, which are not matters of parochial rights, are not to be exclusively reserved to the Vicar Parochial, such as those of candles, palms, and ashes, as stated by Barbos, *Collectio Apostolica*, verb. Benedictio, number 10. Lezana, ibid., number 16. Rotar, *Theologia Moralis*, Volume 3, Book 2, Chapter 2, point 1, number 3. Furthermore, for the general rule, the Holy See decreed in the general decrees issued for Confraternities in the year 1703, in which it was decided that their chaplains could perform these blessings, as found in Monacen, Volume 2, Title 13, formula number 46. And thus, the chaplains can perform these blessings in their respective weeks, and the Vicar Parochial can similarly perform them in his week, without him being able to claim any special privilege regarding these blessings. And if the Archpriest and canons of the church intervene in the same church to perform these blessings, which are not matters of parochial rights, they can do so, but not those that pertain to parochial rights, for the reasons mentioned above; with this qualification, namely, regarding the blessings that are matters of parochial rights, I believe that a suitable answer has been given to the question posed."

"In this manner, having already decided on these three questions by the Holy See, the question is now presented: Should we adhere to, or depart from, these decisions? I believe that all can be satisfied with this single answer, namely, that in the decisions, one must follow the manner and method..."

[*Latin ed. p. 725*]

In AQUILANA, it is the case that the singing of the Mass on solemn days,

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as well as the rites performed in the church from the outside, pertain to the Chaplain for the week, and consequently to the Vicar as Chaplain during his week; to the Archpriest, and also to the Canons, individually if they are present and wish to perform it, which concerns the first question. Regarding the precedence in funeral processions, and the wearing of the stole, these pertain exclusively to the Vicar, even in the presence of the Archpriest and Canons; in other processions, which are not parochial, it pertains to the Chaplain for the week, whether he is the Chaplain or the Vicar; and if the Archpriest or any of the Canons are present, it pertains to them, if they wish, according to their seniority, which concerns the second question. Finally, the blessings of spouses, houses, fields, the baptismal font, and corpses, as well as the announcements of Communions and Indulgences, pertain exclusively to the Vicar; while other blessings, which are not of parochial right, such as those of Candles, Ashes, and Palms, must be performed by the Chaplain in his turn, and consequently by the Vicar as Chaplain when the week belongs to him, unless the Archpriest or any of the Canons are present, to whom, if they wish, it pertains.

Meanwhile, with the number of faithful increasing at the church of Paganicae outside the city, and one Vicar being unable to adequately attend to the needs of the care of souls, in the year 1797, the Bishop Gualtieri established three residential chaplaincies within the same church, to be assigned to coadjutors through a synodal decree. Later, in order to better address the same need, because the Vicars were often changed due to a lack of suitable candidates, in order to provide a sufficient, more honorable, and more certain provision for the same, the Bishop Gualtieri, with the consent of the Chapter and in accordance with the wishes of the people, established in perpetuity a canonical vacancy for the curacy of the church of Paganicae, in the year 1799, with some favor from the Chapter.

[*Latin ed. p. 726*]

726 Concerning AQUILANA, with the limitations added, we refer only to that part of the decree which pertains to the core of the present controversy, in its dispositive aspect: "Since the care of souls in the pagan territory of the Diocese of Aquilana depends, from the very foundation of the city of Aquila, on the distinguished collegiate and parish church of Saint Mary of the Pagans in this territory, which exercises this care through a Vicar, formerly indeed temporarily, but now permanently; and since the aforementioned distinguished collegiate and parish Chapter, burdened with royal taxes, is unable to provide the existing Vicar with an annual stipend greater than that which was formerly established for him, which is by no means sufficient for the maintenance of the church and the care of souls, especially in this present age; therefore, in order to address the frequent changes of Vicars, who, due to the lack of just support, often neglect the laborious care of souls and are accustomed to seek other benefices, with the willing

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consent of the aforementioned Chapter of the Church, and at the earnest request of the people of the pagan territory, we decree that the canonical position, or benefice, in the aforementioned collegiate and parish church, which is now vacant due to the death of the late Canon, Peter Paul Nanni, the last Canon and holder of the Vicarage of the pagan territory, be united, annexed, aggregated, and assigned to the aforementioned Vicarage, as, by virtue of both the special faculty granted to Us by the Council of Trent, Session XXV, and the royal diploma of the 15th of December of the preceding year, we unite, annex, aggregate, and assign it in the present decree; so that at no future time may any other person possess the aforementioned canonical benefice, or receive its fruits and revenues, except the current Vicar, and all his successors in the care of souls, legitimately presented by the Chapter, and instituted by the canonical process of the Bishop. But so that no prejudice, however slight, may arise from this Our Decree, either to the aforementioned distinguished collegiate and parish church of Saint Mary of the Pagans in this territory, or to the Vicar of the town of the Pagans, or to his future successors, we add the following conditions, which must be strictly observed by both parties."

[*Latin ed. p. 727*]

AQUILANA, 727. – I. All the rights pertaining to the aforementioned Chapter, in any way whatsoever, to the parochial Church of Terra Paganica, and its Vicar, must remain intact and unviolated. Furthermore, especially in the event of any vacancy, the Chapter must be maintained in its power to nominate and present the Vicar.

II. The Chapter shall henceforth be relieved of the burden of providing either the annual stipend, or any other sum, which the Vicar and his predecessors have hitherto received due to the lack of a suitable benefice.

III. The Vicar, and all who shall succeed him in this office, shall be named, and considered in all respects, as one of the distinguished Canons of the Collegiate Church and parochial Church of Saint Mary of Paganica in this City; and therefore, as a Canon, he shall precede all the chaplains, both of the same Church, and of the parochial Church of Saint Mary of Terra Paganica, commonly called from outside. However, always, all the aforementioned Canons of the said Collegiate Church and parochial Church shall always precede the Vicar and his successors, without exception, due to the length of their service.

IV. The Vicar, and his successors, shall be exempt from the *turno*, or the right pertaining to the Archpriest or Canon, of nominating or presenting, in the event of any vacancy, new holders of certain benefices, both residential and simple, in which the Chapter has some right of patronage.

V. The present Vicar, and all who shall succeed him in this office, shall receive the full, and not one-third diminished, choral distributions, just as all the other Canons of the aforementioned Collegiate Church and parochial

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Church. However, manual payments, emoluments, and any other benefits of a daily nature, which are divided among the Clerks, Archpriest, Canons, and chaplains of the same Church for any reason, the Vicar and his Successor shall never receive, unless they happen to be present at the sacred functions from which such emoluments arise; but in the event of their presence, they shall be considered as a Canon.

[*Latin ed. p. 728*]

728 AQUILANA. The original decree could not be found, but in the records, dated January 7th of the same year, or two days after the aforementioned decision, there exists an execution decree by which the Reverend Mr. Peter Colantoni, pastor of the land of Paganica, is granted possession of the vacant canonical prebend, following the death of Mr. Peter Paul Nanni, the last holder, and there is also present a certificate of the same prebend, attesting to the real, true, and corporal possession, granted on January 23rd, 1799, by the Archpriest Gerard, delegated by the chapter. Again, mention is made of the canonical prebend granted to the curate of the town of Paganica in the parish of St. Visitation, by the same Bishop Gualtieri, on September 7th, of the year 1804, concerning the annexed obligations of Masses, thus decreeing: "There is established therein a pastoral care under the title of the canonical prebend, with the obligation of celebrating and offering Mass for the people every Sunday and on obligatory feast days; he is also obliged to celebrate Mass and offer it once a week, by virtue of the obligation annexed to the canonical prebend established in the distinguished collegiate and parish church of St. Mary of Paganica, from within, which was established in the year 1799 as a perpetual curacy, reserving the canonical right of the curate for the time being to occupy a place among the aforementioned canons, whenever he wishes to participate in the sacred functions. However, since it seems unjust for the curate to be bound by two obligations of Masses, namely one as curate and the other as canon, therefore we wish to obligate him to fulfill both until, after a more thorough discussion, something else is not decided by us." Finally, Bishop Filippi, also on the occasion of a visitation, in the year 1855, finding the assistant priests not very diligent in the administration of the pastoral care under the jurisdiction of the canonical curate, wished himself to assign a certain portion of the territory to the assistant priests, so that each one would provide pastoral care to the faithful. However, a dispute, which is the object of the present judicial proceeding, arose on January 17th, of the year 1890, by the assistant priests.

[*Latin ed. p. 729*]

In AQUILANA, certain individuals, acting as assistants, insisted that the ecclesiastical affairs of the parish of Paganicae be restored to the state in which they had been established by the Decree of 1731 issued by the

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Sacred Congregation. This Decree, however, the Bishop Gualtieri could not, nor did he wish to, abrogate; therefore, the Vicar of the parish should not claim the canonical insignia, nor precedence except in parochial functions, leaving other functions to the weekly chaplain; furthermore, the revenues of the church should be administered jointly by the Vicar and the chaplains. The Archbishop considered it entirely inappropriate to comply with this demand, but rather, in order to resolve the matter by judicial decree, he requested that the Commission of Sacred Visitation examine the petition of the chaplains. After hearing the allegations of both parties, and having prepared a report, the Commission of Sacred Visitation concluded that the demands of the chaplains were without any foundation. Approving the conclusions of the Commission of Sacred Visitation, the Archbishop, on February 15, 1890, decreed: "The Decree of the Reverend Father Doctor Gualtieri of January 5, 1799, must be strictly observed by the parish priest and the assistant chaplains; these are dependent on the Canon of the parish, to whom precedence belongs in all solemn functions, and in processions with their respective insignia, as has been customary. The administration of the additional revenues should be entrusted to one of the chaplains, elected by vote, with the obligation of giving an equal portion to each chaplain, and a double portion to the parish priest. All provisions of the Sacred Visitation, the Decree of the Reverend Father Doctor Gualtieri of 1797, and also those given by the Reverend Father Doctor Filippi on May 21, 1855, which regulate the parochial office for three assistant priests, must be strictly observed; finally, no modification whatsoever shall be made to the rights of the Archpriest and the Chapter of Saint Mary of Paganicae in Aquila." However, the chaplains did not yield, especially encouraged and urged on by Valentini Vincent, one of the chaplains who later acted as a representative in the legal proceedings and for the other parties.

[*Latin ed. p. 730*]

730 L'Aquila. A Synopsis of the Dispute. DEFENSE V. VALENTINI. The entire argument rests on the premise that the decision of the Sacred Council [S. O. C.] of the year 1731 established irreformable rules and laws for the Church of Paganica, so that no internal decrees of the Bishop Gualtieri at the end of the preceding century, and much less the recent opinion of the Archbishop of the year 1890, could have introduced any prejudice to such an external constitution. Therefore, it must be considered certain that the Church of Paganica, externally, still forms one body with its matrix, the collegiate Church of Saint Mary of Paganica, internally. However, it is noted that within the Church, externally, a perpetual and immovable Vicar was established in the year 1600 by Bishop De Rubeis, as recognized by the Decrees of the Sacred Council [S. G. C.] of the years 1728 and 1731, although even the opponents seem to acknowledge this. On the other hand, the opponents claim that changes have occurred in the Church, externally,

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especially through the decree of Bishop Gualtieri of the year 1799. The defender, for his part, argues that this has not been accomplished, nor could it have been. He claims that it has not been accomplished, denying the authenticity of the cited decree, since the original cannot be found, nor can copies be considered entirely trustworthy, given the perpetual dispute between one Paganica Church and another. But, even conceding the authenticity of the decree, he insists that its intention was not to change the status of the Church, externally, but only to assign to the Vicar certain and secure revenues from a benefice in order to remove the inconvenience of the frequent changes of the Vicar, which, as the decree states, caused damage to souls due to the lack of stability and the inadequacy of the compensation paid by the chapter for their services. Therefore, the Vicar did not become a canon as a result, but only received a benefice providing a suitable income, and this is entirely unrelated and extraneous to other chaplains. If, in the aforementioned decree, there is mention of the privileges of the Vicar over the chaplains, or of canonical titles...

[*Latin ed. p. 731*]

AQUILANA, 731 clauses, or "it should be considered as one of the canonical ones," is, according to the plaintiff, nothing more than "a hastily thrown-together phrase." For, the plaintiff continues, true canonical rights are denied to him, such as the right to be named, and the right to take possession within the Collegiate Church; and concerning possession, he adds this testimony from the chancellor of the Curia, namely, "That the Curate of Paganica... canonically takes possession in the Church of Paganica, where he exercises the care of souls, independently of the Parish Priest of Aquila." But, he proceeds, even if a decree had been issued by Bishop Gualtieri, one would have to say that it was never put into effect, since the Bulls of collation of the Vicariate Curate after the year 1799, differ in no way from those granted before that time; and the Archbishop himself, in the last meeting convened, on April 21st of the year 1888, in the text of the edict, stated concerning Paganica *ad extra* to be "With the care of souls under the title of Vicariate of the Vicariate Curate." The plaintiff also recounts the acts of a certain controversy concerning the Vicariate Curate of Paganica *ad extra* and a certain Canon of the Church *ad intra*, which took place in the year 1821, in which the Vicariate Curate, before his opponent, never dared to claim canonical rights and titles, which would have benefited him. Because, in opposition, the opponent brings forward the report of the Visitation carried out by Bishop Gualtieri in the year 1804, calling the Vicariate Curate a Canon, and he responds that this proves nothing, since such a designation should be understood in a non-literal sense, due to the canonical revenues assigned to the Vicariate by the same Bishop. Furthermore, he notes that the Vicariate Curates have not infrequently been endowed with canonical rights and titles, and therefore

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the Bishop seems, as if to appease the anger, to have thus indulged the ambitions of the Vicariates. And if the Chaplains of that time peacefully affixed their signatures to the acts of the Visitation, the plaintiff explains, "it is because they were not able to refuse the signature." But the opponents more insistently accuse the Chaplains; they accuse them of acting contrary to their own interests and therefore acting deceitfully, because, while claiming goods and benefices for themselves from the government.

[*Latin ed. p. 732*]

732 In AQUILANA, the parish church, concerned about the matter, presented the Decrees of Bishop Gualtieri, striving to demonstrate that the Vicarius curatus had obtained a canonical title, and that other chaplains had become coadjutors. To this request, the chaplains responded that they had invoked the Decrees of Bishop Gualtieri before the civil tribunal for no other purpose than to prove the validity of the benefice of the curacy, both in the case of the Vicarius and in the case of the chaplains; and that such benefices were not subject to the law of suppression of Saint Augustine of the year 1867. However, finally, the plaintiff asserts that it could not have happened as the opposing party claims, through the Decrees of Bishop Gualtieri, since it is firmly established by the Holy Roman Congregation that the Bishop cannot change these matters even during the time of visitation. Regarding another point of contention, concerning the administration of the parish's revenues and expenses, which the plaintiff claims should be held in common, he adds that there is no decree of the Ordinary that deprives the chaplains of this right, since they have a special mandate for the care of souls and for the divine worship. Hence, they present a list of affairs from the years 1877 to 1880, from which it appears that only one chaplain at a time carried out these duties, and in particular, that they were indiscriminately dismissed from the credit accounts (mandati di pagamento) by the Congregation of Charity. Finally, the plaintiff observes that it is entirely intolerable to see the abuse of the Vicarius curatus wearing canonical insignia in the parish church, not only because it is in no way canonical, but because, even if it were, it would be prohibited by law. Indeed, the Sacred Congregation of Bishops and Regular Canons, in the year 1650 in Piacentina, decreed that "Canonicals and those holding benefices cannot wear almutias, since they do not proceed individually, but collegially with the Chapter."

DEFENSE OF THE CANONICAL CURATE. And referring to the history of both parishes, he explains the current state of the church, stating that it is served by a Vicarius curatus, to whom the title of Canonical Curate belongs, and by three coadjutor chaplains.

[*Latin ed. p. 733*]

In AQUILANA, there are proper and distinct benefices to be conferred.

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All enjoy the right to receive emoluments, although not in the same measure; the parish priest receives a double portion. However, the Vicar and Chaplains, before the laws of ecclesiastical property were abolished, formed a single body with the Chapter of the collegiate Church of Saint Mary of Paganica within, and therefore participated in the common Mass and were subject to daily attendance for the choir in the church outside, the choral service being considered as one and the same with that rendered in the collegiate church within. Nevertheless, the parish priest of the church outside still retains his title and canonical privileges, and has the right to sit in the choir of the collegiate church whenever he wishes to attend; whereas, on the other hand, the Chapter retains certain rights reserved to it, e.g., the appointment of the parish priest and the performance of functions twice a year in the original church of Paganica. "This is the current constitution of the church outside," says the curate, "which the chaplain Vincenti is trying to disrupt unjustly; and he proves this by 1° refuting the arguments of the opponent, and 2° by presenting solid reasons in his favor." Firstly, he points out that, of the opponent's arguments, only one appears to have some basis, and that relates to the decree of the Sacred Congregation of 1731. However, a closer examination reveals that this is more harmful than beneficial to the chaplains. Indeed, in that most wise decree, the mind of the Holy Congregation is always and the same, namely, to preserve the rights of the Chapter over the chaplains, recognizing that the chaplains serve the church outside by the name and delegation of the Chapter, so that if the Chapter itself, or the entire Chapter, or even a single Canon is present in this church, the chaplains must yield to it in precedence and in any office, even a parochial one. "For," says the curate, "the habitual care resided in the Chapter, and the actual exercise was carried out by the chaplain at the will of the Chapter, and revocable." However, when the Chapter and no canons are present, it seemed just to distinguish between parochial functions and other functions that are not at all like them, attributing the former exclusively to the chaplain curate.

[*Latin ed. p. 734*]

734 Regarding L'Aquila, after declaring the chaplains to be of equal standing, they were to receive the same benefits, distributed weekly. However, this decree of the Sacred Congregation, as the opposing party maintains, did not establish the external status of the church, but rather declared certain rights and privileges; therefore, it left the entire matter entirely to the discretion of the ordinary, as indeed happened. For in the year 1797, the Bishop, Gualtieri, changed the chaplains, who had previously only resided to serve the choir, into vicars coadjutors, dependent on the vicar in a certain measure for the administration of the sacraments and other functions. The chaplains do not dispute this, indeed they gladly recall the elevation by the Most Reverend Gualtieri to the

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rank of coadjutor vicars; but they wish to have deleted that part of the decree concerning their dependence on the vicar, and therefore, in this respect, the document is not what it appears to be, as the chaplains claim. However, the innovation, which is the basis of this controversy, was made by a decree of the year 1799, and therefore, just as the other chaplains strive to deny the authenticity of certain decrees, or at least to distort their true meaning in every way, so too the vicar contends that the chaplains are trying to obscure the meaning of the decree of the year 1799, in which the vicar was made one of the canons, "as one of the canons."

Furthermore, the vicar points out that a copy of the decree of the year 1797, which was brought to the archive of L'Aquila, was found to be recorded on August 21, 1828, and that another decree of the year 1799 is preceded by a decree of the Prince permitting the union of the canonical prebend of the vicarage of the church of Paganica. Moreover, the original act of possession of this prebend, obtained by virtue of the decree of the Most Reverend Gualtieri, is dated two days after the decree of union, and the acts of the Visitation of the Most Reverend Gualtieri in the year 1804, and another Visitation of the Bishop Filippi in the year 1855, remove all doubt on this matter. And, the vicar adds, the chaplains attempt to obscure the meaning of the decree of the year 1799, in which the vicar was made one of the canons, "as one of the canons."

[*Latin ed. p. 735*]

Let the city of AQUILANA precede us all, both of the same church, and of the Parochial Church of Saint Mary, commonly called "Terrae Paganicae," located outside the city. These words of the decree, the opponent insists, imply a union, formally established by the Bishop, in the title of Canon, with the Curate Vicar, stating, "By this present decree, we unite, annex, aggregate, and assign." However, so that the memory of the origin of this union might not be lost, as is often the case, certain privileges were reserved for the chapter. Thus, the Parish Priest of the church "ad extra" retains the title of Vicar, and the right to present candidates belongs to him; he sits last in the choir, does not have a weekly turn, nor the right to appoint clerics. But, the Curate continues, these reservations do not diminish his canonical title and rights, for, while all other privileges are reserved to him, "he is considered as a canon," and while, on the one hand, they serve to prevent the memory of the origin from being lost, on the other hand, they presuppose and strengthen the unity of the two churches, which have never been separated, and which form and constitute one and the same chapter. Finally, the opponent, resorting to the last refuge of adversaries, denies that the Bishop had the power to make this change, noting that the Bishop acted not only during the time of the Visitation, but also as a delegate of the Apostolic See, by virtue of the authority granted by the Council of Trent, Session 24, chapter 18, concerning the rights, and that he

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did not violate the decrees of the Holy Council, since these are not constitutive, but declarative; and that the rights of the canon were not changed because the status of the church was legitimately changed, but rather, a new application of the disposition of the Holy Congregation was made, establishing that the Curate Vicar appointed would be one of the canons of the church "ad extra," and would always reside at the church "ad extra." Finally, the Curate states, this decree of Gualtieri legitimizes the granting of canonical insignia in the church "ad extra" by the Curate Vicar, a practice which is certainly established and confirmed by a custom of centenaria [centenary] standing. Furthermore, the administration of the expenses of the cult is attributed to the Curate Vicar, as is the common right and custom in this case.

[*Latin ed. p. 736*]

736 In AQUILANA, etiam hoc accidit; et il Curato loda la prudenza del Vescovo, e ammirando che, come segno della sua benevolenza verso i cappellani, egli abbia permesso loro di nominare un Procuratore per amministrare i beni della chiesa comuni. OSSERVAZIONI D'UFFICIO. Se prima le ragioni dei cappellani fossero state riportate alla luce, sarebbe apertamente evidente che essi, con giustificata disapprovazione, attribuiscono ai decreti del Vescovo Gualtieri cose assolutamente estranee. In verità, non da tali decreti deve derivare la costituzione di un curato perpetuo nella chiesa di Paganicae ad extra, ma da una disposizione del Vescovo de Rubeis, nell'anno 1600; poiché Gualtieri, nel decreto del 1797, elevò i cappellani residenti, dedicati solo al servizio del coro, al rango di cappellani, coadiutori del curato. Inoltre, in un altro decreto dell'anno 1799, aggiunse che alla Vicaria curata doveva essere data una canonica, ma egli non rese il Vicario perpetuo e inamovibile. Inoltre, la chiesa di Paganicae ad extra non è stata separata dalla chiesa madre, come spesso sembrano insinuare il curato e altri che ne sostengono la causa; poiché non si trova da nessuna parte neanche una parola di tale separazione, che non si presume, ma deve essere manifestamente provata; né il Vicario curato può essere chiamato Parroco indipendente, a causa dell'esteso territorio di Paganicae ad extra, ma, poiché il Vicario curato, per il fatto di avere dalla Parrocchia abituale indipendenza nell'attuale esercizio della cura delle anime, come indica anche il Cardinale Belluga nel suo voto, e a tali Vicari è concesso dal diritto comune; e nient'altro. Al contrario, riguardo al diritto del curato, che è stato riconosciuto e confermato dal Vescovo, ritengo che le circostanze meno corrette che ho indicato nella parte dell'argomentazione non inficino la parte dispositiva, anzi, la spiegano meglio se sono interpretate nel senso sopra esposto. In verità, è fondamentale che il Vescovo de Rubeis abbia reso il Vicario curato perpetuo e inamovibile, secondo l'intenzione della Costituzione Piana. Il curato, essendo stato così aumentato di diritti, ritenne di

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essere quasi esente da qualsiasi giurisdizione del capitolo.

[*Latin ed. p. 737*]

In AQUILANA, the matter arose of determining precedence, with one party behaving as if it were an external entity, denying precedence to the other. This led to disputes and contentions which were ultimately brought before the Sacred Congregation of Councils, and were decided in favor of the curate in the year 1728. In the document presented to the Cardinals, it is stated: "Witnesses affirm that the Vicars, as well as the clergy of the same church, have precedence over the Canons and the Archpriest of the church when entering from outside, provided that these individuals enter individually, and not as a body." However, the matter was re-examined in 1731, and in its decision, Emus Belluga, later approved by the Congregation, sought to eliminate the usurpations of the Vicars and to limit the rights and precedence of the curate to truly parochial functions. Subsequently, the Bishop Gualtieri, in order to better attend to the care of souls, added assistant chaplains to the curate; then, after two years, he united the Vicariate with the curacy in a single position, providing a suitable canonical benefice. Since the church of Paganicae, viewed from the outside, formed a single body with the church within, the Vicar could, by receiving a canonical benefice, become a Canon, even though he appeared to reside with one and be part of its body; but, on the other hand, since the curate did not cease to be a Vicar, and the chapter was the habitual Parochial Chapter, certain reservations were made regarding the canonical rights to signify the curate's dependence on the chapter. Therefore, the church is not divided into two separate entities, but forms a single body, and the curate is the true Canon of the church within, even though he may be the last to enter and does not have an active voice in the right to appoint clergy; for in other respects, he has an active voice and the right to distributions and other canonical privileges. Regarding the granting of canonical insignia, which belong to the college rather than to individuals, it seemed that these should not be granted when the individual acts alone; but perhaps a legitimate and venerable custom supports this. Considering these points on both sides, the matter was to be clarified; Acta, Vol. XXVI, sect. CCOXII, 47.

[*Latin ed. p. 738*]

738 L'Aquila. A question arose concerning whether the judgment of the Archbishop of L'Aquila should be confirmed or rejected in a certain case. RESOLUTION. The Sacred Congregation, after deliberation on February 24, 1894, decided to respond: "The judgment should be confirmed." Furthermore, from the LIBERATIONIS A PENSIONIBUS PERSOLVENDIS, issued by the Sacred Congregation of Bishops and Regular Canons of Ravenna, dated March 16, 1894. Reverend Charles Uberti, parish priest of the Church of Saint Peter the Greater in the city

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of Ravenna, in the year 1891, declared to the Sacred Congregation that, in order to obtain approval for his appointment to said parish, he was obligated to declare that, in the event of his appointment, he would pay two annual pensions, one of 212 scudi for the maintenance and restoration of the parish church, and the other of 300 scudi in favor of poor parishes. Upon assuming possession of the parish, the parish priest discovered that these pensions could not be sustained, both due to the insufficient income of the parish and for other reasons. Therefore, he petitioned the Sacred Congregation to declare him exempt from paying these pensions. After hearing the case, concerning this matter, the Ordinary of Ravenna, together with the Metropolitan Chapter and other interested parties, presented their arguments. On September 27, the Moderators of the Sacred Congregation presented the case to a plenary session of the Sacred Congregation. COMPENDIUM OF THE FACTS.

[*Latin ed. p. 739*]

RAVENNA. 739. A Synopsis of Matters Concerning Those Who Are Still Living. The parish priest argues that pensions should be restored, because prayers for their restoration were offered, even if the petitioner was not at fault, due to circumstances and usurpations. Indeed, concerning the first pension for the maintenance of the church, it is historically established that this had been requested since the year 1850 by the Holy See in a document (summa) number 638, paragraph 40. The Holy See then responded, promising that it would be provided in due time, and subsequently, after repeated prayers by Cardinal Falconieri in the year 1855, in a document (summa) number 212, paragraph 80, this concession was granted by a rescript, considering the circumstances presented. However, the parish priest continues, if these matters are examined, everywhere one sees the vice of usurpation and subversion.

1. It was stated that no one was obligated to contribute to the repairs of the church, which formerly belonged to the Royal Apostolic Chamber, in terms of rights and burdens of the Demanio, while such a burden weighed upon the Archbishop of Ravenna, to whom the property of the church belonged; therefore, he was obligated to provide for it, if not from the goods of the table, certainly from a portion of the revenues of the convent and garden of the Religious of the Conventual Order, which had been granted to him by the Royal Apostolic Chamber together with the annexed church in the year 1821; this garden and convent passed into the ownership of the Messrs. Tavelle in December of the same year, but the Archbishop retained his right over the church.

2. It was stated that the revenues of the parish had decreased since the time of Pius VII, who had judged it then capable of supporting a pension.

3. It was reported that the sum for the maintenance of the worship, the sacred furnishings, and the fabric of the church amounted to 100 scudi,

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while a much larger sum was required.

4. It was also stated that after the suppression of the Religious, the church of Saint Mary Magdalene had been assigned to the parish priest for his parochial functions, while, on the contrary, only the altar of Saint Liberius had been assigned to him.

5. It was requested that all the legacies be transferred from the parochial church of Saint Mary Magdalene to that of Saint Peter.

[*Latin ed. p. 740*]

740 RAVENNATEN. And conversely, this translation had been completed in the year 1806 by the decree of Archbishop Codronchi. Having enumerated these vices in the prayers, the presumptive pastor also argues that his predecessor, Amadori, did not adhere strictly to said pension, since from the epoch of its imposition, namely from the year 1856 to the year 1884, he never remitted it, he did not record it in the parish inventory, nor are there any traces of restorations that should have been carried out with the accumulated sum of the pension in book 5958, page 40. He contends that the other pension, inscribed in book 300 in favor of poor parishes, which was requested by the Most Reverend Archbishop Cattani in the year 1884 in book 400 and obtained in the aforementioned sum, suffers from the same defect. 1°. Because the pensions were founded on the income of the parish during the time of Pius VII, which, according to the Pontiff, could be burdened with a pension up to 120 scudi. Conversely, the income of the parish from that time, both due to diminishing profits and to increased burdens, which the pastor enumerates, had greatly diminished and deteriorated. 2°. Because the Most Reverend Cattani misrepresented the income of the parish as abundant and flourishing, contrary to the actions of the pastor Amadori, who simulated an increase in the parish income in the declaration for taxes, commonly called the "dead hand," included in the annual declaration in book 639, page 24 for legacies, so that, in the event of a confiscation by the Government, the assignment of the pension would be greater. But in reality, the income was not abundant, especially considering the heavy expenses incurred in the parish for various reasons, but rather was very meager. Thus far, regarding the nullity of the imposed pensions due to the aforementioned reasons. But secondly, the pastor argues for the exemption because the income of the parish is insufficient to bear these expenses: he proves this with a note of assets and liabilities in which, after all deductions, only 40.30 livres remain for the pastor, with which he must provide not only for his own honest sustenance, but also for other expenses, not excluding the payment of the very pensions themselves. Therefore, it is only just, according to the pastor, to relieve the parish of the burden of the pensions, but also to grant

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some assignment.

[*Latin ed. p. 741*]

RAVENNA. In the year 741, it was necessary to obtain funds, with the favor of those concerned, for the maintenance of the church and other necessary expenses, especially for the services, which, when the parish was located in the church of St. Mary Magdalene, now reduced to a public oratory, amounted to an annual sum of 225 florins; but now, after the transfer of the parish to the larger church of St. Peter, they have increased to 1755 florins and 56. Therefore, it is not surprising, the parish priest concludes, that his predecessor, who first undertook this burden, died having not completed several obligations concerning utensils, furnishings, and sacred vessels.

WHAT IS OPPOSED TO EXONERATION. However, together with the parish priests, one of whom receives a pension of 300 florins, the Commission of the Metropolitan Chapter of Ravenna, appointed to examine the matter, holds a different view. It denies any deception or trickery in the petitions of the Reverend Falconieri, and asserts that no one was obligated to contribute to the maintenance of the church. Indeed, since the year 1821, the monastery and garden of the religious community of Tavelle had ceased to belong to the Archbishop Godron, and indeed without any reservation; the church, however, remained without any endowment or contribution to provide for its maintenance; and since there was no one else to assist, it did not seem just to add this burden to the Archbishop's table; therefore, the Reverend Falconieri spoke truly in his petitions: in fact, no one was present who could contribute to the preservation of the church. Furthermore, secondly, the petitions cannot be considered as deceptive or fraudulent, because they expressly state the income received during the time of Pope Pius VII and the subsequent reduction of that income; for the Commission observes that this reduction does not exist. Indeed, during the time of Pope Pius VII, the income of the rectory of St. Mary Magdalene, now St. Peter the Greater, was (as stated in the papal bulls) two hundred and fifty gold ducats from the treasury, or 2400 florins. But in the year 1855, although some revenues may have ceased and others may have been uncertain, it can safely be asserted that the parish had an income greater than that currently reported. The Commission argues this from a note presented by the parish priest himself for the four-year period 1885-88, in which, although taxes were...

[*Latin ed. p. 742*]

742 RAVENNATEN. The revenues, both major and minor, are uncertain, being less than in the year 1855; nevertheless, the average parish revenue, after deduction, amounts to 3000 livres. Regarding the sum of 100 scudi for the maintenance of the fabric and worship, about which the Reverend Falconieri made requests, and which the parish priest is accused of conceal-

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ing, the Commission observes that this sum is not mentioned anywhere in the parish accounts, nor is there any mention of expenses for worship. Furthermore, the Commission rejects the parish priest's claim that the deduction was made due to the actions of his predecessor, who never paid this pension, because there was no obligation to deposit this sum annually with the Curia; therefore, the parish priest Amadori could, as is evident, apply it to repairs of the church, as is shown by the large repairs that were made to both the church and the parish house.

Then, the Commission proceeds to the second matter, namely, the pension of 300 livres in favor of poor parishes, and it fully supports its imposition. The report made by the Reverend Cattani, that the parish of Saint Peter is abundant in revenues, is not entirely inconsistent with the general opinion that it is the richest among the diocesan parishes; however, it is contradicted by the inventory presented by the parish priest Amadori at the time of the Visitation, and by the document signed by him: from this, it appears that the parish revenue, after deduction, amounts to 1 bell. 7019, from which, if the expenses, including those for worship, are deducted, the amount remaining for the parish priest is 3559 livres, and not 40. 30 as is stated. However, the observation made by the parish priest that the inventory of Amadori was exaggerated, the Commission refutes, stating that even the note presented by the opposing party must be corrected. In truth, the revenues from property, which constitute almost the entire parish revenue, deducted from the average of the four years 1885-88, according to said note, amounted to 2451.10 livres. But, according to the Commission, this sum cannot be retained as an ordinary, approximate figure, both because of the financial or agricultural crisis that was then in force, and perhaps also because of events that then occurred.

[*Latin ed. p. 743*]

RAVENNATEN. In the year 743, there was damage from hail and drought. Elsewhere, the Commission adds that, considering the fertility of the land and the improved cultivation, the purified income can be estimated in the amount of 25 for each local measure of land; since the property in question possesses approximately 140 such measures, the land income will not be less than 3,500. Adding to this the amount of 4,753.31 from other sources, the net assets will amount to 3975.31; from which, if we deduct 859.20 for taxes, the remainder will be 3115.11. Now, the Commission continues, if this sum is reduced by 512.80 for the settlement of two pensions in question, the parish priest will have remaining the sum of 2602.31, an income which, besides the fact that it can increase due to the works and improvements made on the land by the current parish priest, currently exceeds even that income upon which Pope Pius VII judged that a pension of 120 scudi could be imposed. These matters, briefly stated on both sides, relate to the question: Should the parish priest of St. Peter

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Major be exempted from the two pensions in this case?

RESOLUTION. The Sacred Congregation of Bishops and Regular Canons, having carefully considered the legal and factual aspects, has responded: No.

DECREE OF THE SACRED CONGREGATION OF BISHOPS AND REGULAR CANONS, defining the parts of the office of the Abbot Primate and the duties towards the entire Order after the union of the various Benedictine Congregations of Negros Island, under the direction of the Abbot General residing in Rome (1). On September 16, 1894. There is nothing more ancient, nor nothing more useful, than the bond of unity, by which societies, previously divided and separate, are joined together as if by a pact, under the leadership of one of their members, without detriment to their own legal status and particular statutes, in order to more easily achieve their common purpose and prosperity. Therefore, the most wise Pope, our Lord Leo XIII, by divine Providence, has decreed... (1) The Brief concerning the union has already been mentioned in this volume, page 371.

[*Latin ed. p. 744*]

744 A lover of order and peace, addressing the illustrious and most deserving Benedictine Congregations of men, whom they call "black monks," with all care and consideration, so that, as if by a sacred bond, they might form an association for the benefit and growth of the entire Order. The desires and aspirations of this undertaking were expressed by the Most Eminent Joseph Benedict, Cardinal Dusmet, of the Holy Roman Church, who petitioned this venerable City, and laid the first stone in the College of St. Anselm on the Aventine Hill, thereby laying the foundation for its construction. He also presided over the assembly of Abbots and delegates from various Benedictine families, convened here to announce and establish this fraternal association, to deliberate together, and to bring it to fruition. Fortunately, with God's help, all aspects of this matter were considered, and these resolutions were established with harmonious minds, and were approved by the Supreme Authority, as can be seen in the Apostolic letters, in the form of a brief, published and printed on July 12 of this present year, 1893, the brevity of which is only what is necessary to explain the purpose of this decree, and which is presented in a concise and complete manner. Firstly, it was decided and confirmed that all the Benedictine Congregations, whom they call "black monks," should establish a true fraternal confederation, which, however, does not subject any Congregation to another. And so that some unity might be achieved, it was determined that a Primate Abbot should be created among all the Congregations, who should reside in Rome, directly attending to the good of the entire Order, and confirming the stability of all Benedictine Congregations, Constitutions, declarations, privileges, offices, and dignities. Secondly, this Primate Abbot should be chosen from the entire body of Congregations, without any distinction of

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nationality. Thirdly, this same Primate Abbot should simultaneously be the Abbot of the College of St. Anselm in the City, with ordinary jurisdiction, and should reside there; however, the College itself should not be considered to belong to any of the aforementioned Congregations, but should have a community drawn from all of them. Furthermore, in numbers 4 and 5 of those same Apostolic letters, all matters concerning the term of office of the Primate Abbot, his new appointment, and the election, as well as the nomination which the Supreme Authority has deigned to make in the person of Hildebrand De Hemptinne, Abbot of Maredsous, from the Beuron Congregation, are established, appointing him as Primate Abbot, and therefore as Abbot of St. Anselm, for as long as the Holy See shall deem it fitting.

[*Latin ed. p. 745*]

DECREE 745. Concerning that which pertains to this Holy Congregation, regarding the business and consultations of Bishops and the superiors of regular canons, it is to be distinctly understood that it is separate from the functions of the Primabate Abbot, and that the specific rights and duties towards the entire Order are also separate. This Holy Congregation, acting under the mandates of the Supreme Pontiff, having diligently and accurately considered all matters, has determined the following to be decreed. Firstly, concerning the Primabate Abbot, such as the Abbot of the College of Saint Anselm in the City, who, possessing ordinary jurisdiction, may perform all that other ordinary Abbots of the same Order can perform in their monasteries, according to their own Constitutions. Secondly, concerning the specific rights and duties towards the entire Order, and furthermore, those relations of the College with each Congregation, so that the Prelate may not be ignorant of these matters, it has been deemed fitting to decree that all Abbots General of the individual Benedictine Congregations shall be obligated to transmit to him, every five years, a report on the state of their respective Congregations, both in terms of morals and material matters, especially so that the condition of the entire Order may not be unknown to him. Furthermore, should doubts or disagreements arise between the superiors or Abbots of any Congregation, which cannot be resolved within their own Congregations, it is decreed that they should appeal to the Primabate Abbot, who, with paternal charity, will leave nothing undone to ensure that the minds of all the monks are confirmed in the bond of peace, and that they may serve God humbly and joyfully. Moreover, if necessity arises, he has the right to visit any of the affiliated Benedictine Congregations, rejoicing in the exercise of this act of visitation with all its preeminence and honors; and he may perform this visitation either personally or through a suitable monk, specially appointed by him for that purpose. Furthermore, concerning those questions which cannot be resolved peacefully and which do not admit of delay, in truly urgent cases, attending to necessity, he shall

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immediately decree what he judges to be just and best in the Lord, and afterwards report the matter to this Holy Congregation. Finally, he shall diligently watch over and ensure that regular discipline is maintained in each of the aforementioned Congregations.

[*Latin ed. p. 746*]

746 DECREE: Should any matter arise in the future concerning the foregoing, then, as the circumstances require, recourse shall be made to this Holy Congregation of Eastern and Oriental Churches. Therefore, with these things established by Apostolic authority and with the highest sanction, this Holy Congregation has the firm hope that each Benedictine Congregation and its religious men, of whatever rank, dignity, and eminence, obedient to the cares and solicitudes of the Most Holy Prince, will not only willingly accept this decree, but will embrace it eagerly and gratefully. This, indeed, is a singular demonstration of the benevolence of His Holiness Leo XIII towards the Holy Patriarchal Order of Western Monks, and is an ornament to that Order, to the praise and glory of God. Notwithstanding any other Apostolic Constitutions or those of this Order, or any other special and individually worthy matters, which may be contrary to this. After having heard the Most Holy Father on the 3rd of September, 1893, in the presence of the Most Eminent Cardinal Prefect, the present decree was ratified and confirmed in all respects. Given at Rome, from the Secretariat of the Holy Congregation of Eastern and Oriental Churches, on the 16th of September, 1893. I. CARD. A. VERGA, Prefect. TROMBETTA, Pro-Secretary.

FROM THE HOLY CONGREGATION OF RITES: Doubts concerning the consecration of an altar.

The Most Reverend Divine Antonius Andreziewicz, titular Bishop of Philomelien, Suffragan of Gnesnen, humbly submitted the following doubts to the Holy Congregation of Rites, for a suitable solution:

Doubt I: In some churches of his diocese, larger altars have been consecrated as fixed altars, the surface of which, or the entire surface, is not joined to the lower brick structure by any stone. The question is, whether such a consecration of an altar is valid?

Doubt II: In a certain church, a larger fixed altar was consecrated, the surface of which was made of a stone so fragile that, in fact...

[*Latin ed. p. 747*]

FROM SACRED RITUALS 747, the fourth part of the consecration should be abruptly ended and divided. Then, all the remaining ceremonies are completed, and the unctions are performed in the four corners of the upper part, joined together with the pillar. The question is asked: Has the altar been validly consecrated? Question III. When, in the consecrations of churches, which take place on Sundays, the consecrating

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Bishop assigns the same day for commemorating the anniversary of the Dedication, is it permissible for that Sunday, which, for example, will be some time after Easter, or after Pentecost, to be assigned as the day of the month in which the Sunday of the completed Consecration falls? And the Sacred Congregation, after receiving the following report from the aforementioned Secretary, and after a carefully considered vote by another of the Masters of the Sacred Ceremonies, decided to respond to the aforementioned questions in the following manner: To the first: Affirmative. However, the Reverend Bishop is granted a special dispensation; that is, that stone pillars may be added to the already consecrated altar, and the prescribed unctions may be performed privately in the corners, so that the table may be joined with those pillars. To the second: Negative. To the third: Affirmative. And thus it was written and granted on June 8, 1894. CARD. ALOISI - MASELLAS. Prefect. S. VINCENTIUS NUSSI, Secretary. QUEBEC. Doubts concerning the anniversary of the election of the Bishop. The Most Reverend Cardinal Alexander Taschereau, Archbishop of Quebec, humbly submitted the following doubts to the Congregation of Sacred Rites for opportune resolution: Doubt I. To what day should the anniversary of the election or consecration of the Bishop be transferred, if it occurs on December 24th? Doubt II. Assuming that the Bishop, consecrated on March 19th, on the feast of St. Joseph, and in accordance with the Decree of the Sacred Congregation of December 12, 1891, has assigned the following day, namely March 20th, for the anniversary celebration, what should be done: 1° in the church whose titular feast is celebrated on that very day, March 20th; 2° throughout the entire diocese, if the 19th occurs on a Sunday, or on the Sunday of the Passion, or on a feria of the week of Easter?

[*Latin ed. p. 748*]

748 From the Sacred Congregation of Rites, Question III: Whether the anniversary should be celebrated by the Bishop or in his presence within the Cathedral itself, or whether it can be celebrated in another church within the diocese? Question IV: Whether, if the votive Mass is prevented by the Bishop or by his presence, the Prayer should be joined to the same conclusion with the prayer of the day, according to the rule concerning Masses impeded for a grave reason; or whether it should be added after the other prayers prescribed by the Rubric, as in other Masses celebrated throughout the diocese? Question V: Whether the commemoration of the aforementioned anniversary pertains to all priests, those celebrating Mass within the diocesan limits on that day? And the aforementioned Sacred Congregation, in response to the inquiry of the undersigned Secretary, and after deliberation, decided to respond to the Masters of the Apostolic Ceremonies, as follows: To I: It is assigned to the day before, on which the Double of the Second Class is not celebrated, before December 24th. To II: In the churches

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of the diocese where March 20th is impeded, nothing is done concerning the anniversary of the consecration of the Bishop. To III: Affirmative to the first part; Negative to the second. To IV: In this case, the commemoration is added to the Prayer of the Mass of the day under a single conclusion (Decree in Bracharen.). June 8, 1809, to VII. To V: Affirmative. And thus it responded and declared on April 27, 1894. C. CARD. ALOISI - MASELLAS. Prefect. L. & S. VINCENTIUS NUSSI. Secretary. DECREE: It is granted to titular bishops who have passed away to enjoy the same privilege as diocesan bishops, while prayers are offered for the souls of the departed. Those who have served the Lord in life, it is fitting that, after death, they should receive special prayers from the Church. Therefore, the Sacred Congregation, after deliberation, has decided that, while the body of a diocesan bishop is clothed in sacred vestments, in the main hall of his own church, publicly...

[*Latin ed. p. 749*]

According to Sacred Rites 749, and it is solemnly laid out, Masses should be celebrated in suffrage for the soul of the deceased; all things being observed, as are prescribed in the Ceremonial Book of Bishops, Book II, Chapter XXXVIII, concerning the exposition of the body of a deceased Bishop and the offering of prayers. This privilege granted to Bishops in their dioceses is also extended to Vicars Apostolic in their vicariates, and to Abbots and other Prelates of the Nullius Dioecesis jurisdiction, who, enjoying ordinary life, have passed away in their own territory, with the same understanding. Furthermore, the Sacred Congregation of Rites grants a special grace, so that even titular Bishops who have died may enjoy this same privilege, provided that their bodies are exposed in a suitable hall, and adorned with pontifical vestments (without, however, the pastoral staff), if they are outside the city; or, if in the city, they are wearing their official attire. Contrary to any and all previous regulations. On April 3, 1894. After having made a report to the Most Holy Lord Pope Leo XIII regarding all of this, through me, the undersigned Cardinal, Prefect of the aforementioned Congregation, His Holiness approved the judgment of the aforementioned Sacred Congregation in all respects, and confirmed it. On April 29, 1894. C. CARD. ALOISI - MASELLAS. Prefect of the Sacred Congregation. L. * S. VINCENTIUS NUSSI, Secretary of the Sacred Congregation.

Regarding doubts concerning the patrons of the diocese: The Most Reverend John Soldevilla y Romero, the current Bishop of Tirasonen, desiring that all things be done properly, humbly submitted the following doubts to the Sacred Congregation of Rites for a suitable solution, namely: The Apostolic See, on May 2, 1867, for Spain, regarding local patrons, established that in each diocese, only one principal patron should be designated by the Holy See, observing the law of standing firm and abstaining from servile works; which, however, is not observed in this diocese, nor has a patron been

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designated by the Holy See; although in the diocesan calendar, approved by the Sacred Congregation on April 8, 1891, Saint Prudentius is named as the patron of the diocese, and Saint Gaudiosus as the principal patron. If it were the case that only one or the other of these were to be venerated as the patron in the diocese, there would certainly be a very serious risk of non-observance.

[*Latin ed. p. 750*]

750 From the Sacred Rituals: The Diocese is partly situated within the Kingdom of Aragon, where the Most Blessed Virgin Mary of Kolomna is venerated according to Apostolic concessions, and under the obligation of a feast day; partly within the Kingdom of Navarre, where Saint Firminus enjoys a similar privilege; partly within the cities of Castile, where no Patron Saint has been designated; and finally, within the Diocese, certain populations venerate a particular Saint as their Patron, and celebrate his feast day under the twofold obligation. Having explained these matters, the following questions are raised in order to preserve ancient practices and customs:

I. Is it necessary to have Saint Prudentius as the Patron of the Diocese? And if his feast day has not yet been observed, should it be instituted and celebrated under both obligations, given the grave danger of non-observance?

II. Can the feast day of the Most Blessed Virgin Mary of Kolomna in the Kingdom of Aragon, and of Saint Firminus in the Kingdom of Navarre, be observed in place of a Diocesan Patron? And if so, must the feast day of the Patron of each city, town, or place in the Kingdoms of Aragon and Navarre be observed, lest it be neglected under the twofold obligation?

III. Are the feast days of particular local Patrons to be celebrated throughout the remainder of the Diocese under the twofold obligation, in place of the Diocesan Patron?

The Sacred Congregation, after careful consideration of the aforementioned report from the Secretary, and also at the earnest request of another of the Masters of the Apostolic Ceremonies, deemed it advisable to respond to the questions posed, as follows:

To I. Regarding the first part: Adhere to the properly approved Calendar. Regarding the second part: The established custom should be maintained.

To II and III. Nothing should be changed regarding the feast days of the Patron of each kingdom, and of each city, town, or place.

And thus it was decreed and ordered to be observed on May 4, 1894.

C. CARDINAL ALOISI - MASELLA.

Sacred Roman Liturgy.

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C. Prefect.

S. VINCENTIUS NUSSI, Sacred Roman Congregation. Secretary.

FROM THE SACRED CONGREGATION FOR INDULGENCES:

Act of consecration to Saint Aloysius Gonzaga.

To the Most Blessed Father Luigi Morandi of the Society of Jesus, humbly prostrate at the feet of Your Holiness, he supplicates that, in order to increase devotion to the angelic young Saint Aloysius Gonzaga, Your Holiness would deign to grant an Indulgence of three hundred days, once each day.

[*Latin ed. p. 751*]

From the Sacred Ritual, 751: Whoever recites the prayer to the same Saint, and the entire prayer for a whole month, under the usual conditions. Act of Consecration to St. Aloysius Gonzaga.

Glorious St. Aloysius, whom the Church honors with the beautiful title of angelic youth, for the most pure life you led here on earth, I present myself to you on this day with all the devotion of my mind and heart, and I consecrate myself entirely to you. O perfect example, O benign and powerful Patron, how much I need you! The world and the devil lay snares for me; I feel the ardor of passions, I know the weakness and inconstancy of my age. Who will be able to protect me, if not you, angelic Saint, glory, honor, love, and support of young people? To you, therefore, with all my soul, I run; to you, with all my heart, I entrust myself and I consecrate myself. I intend, therefore, to be especially devoted to you, to glorify you for your excellent virtues, especially for your angelic purity; to imitate your examples, to promote your devotion among my companions, to invoke and bless your holy name until my last breath. Yes: I consecrate my soul, my senses, my heart, my entire self. O my dearest St. Aloysius, I am now all yours, and I want to be yours forever. Please, keep me, defend me, preserve me as your own, so that, by serving and honoring you, I may better serve and honor Jesus and Mary, and one day, with you, I may see and bless my God for all eternity in Paradise. So be it. Amen.

By order of the Sacred Congregation for Indulgences and Sacred Relics, using the faculties granted to it by the Most Holy Pope Leo XIII, a plenary indulgence is granted to all the faithful of both sexes, who, with at least contrite and devoted heart, recite the aforementioned act of consecration to St. Aloysius Gonzaga, for one hundred days. Furthermore, a plenary indulgence is granted to those who recite the same act each day for the entire month of June, as mentioned above, and who, on one of the seven days immediately following, while truly penitent, having confessed and received Holy Communion, devoutly visit a church or public oratory, and there offer some prayers to God, according to the intention of His Holiness.

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These indulgences are also declared applicable to the deceased. The present decree is valid forever, without any restriction.

[*Latin ed. p. 752*]

FROM THE SACRED CONGREGATION FOR INDULGENCES, 752. A brief expedition. Notwithstanding all oppositions. Given in Rome, from the Secretariat of the aforementioned Sacred Congregation, on the 12th of June, 1894. (Latin version) Translated by the direction of the Ephemeris. Most Blessed Father, Father Aloysius Morando, of the Order of the Stigmata, humbly prostrates himself before Your Holiness, and requests that, to increase devotion towards the angelic youth, Saint Aloysius Gonzaga, Your Holiness would deign to grant an indulgence of 300 days, to be gained once daily, by those who recite the annexed prayers in honor of the aforementioned saint, and a plenary indulgence to those who recite the entire set of prayers. Act of consecration to Saint Aloysius Gonzaga. Aloysius, who by the honorable title of angelic youth, through the purity of your life, which you demonstrated in this life, I invoke you today, with all my mind and heart, and I devote myself entirely to you. O excellent example, benign and powerful patron, I greatly need your help! The world and the demons prepare snares, I feel the power of passions, and I acknowledge the weakness and inconstancy of my age. Who, except you, angelic servant of God, glory, ornament, love, and protector of young people, will protect me? Therefore, I turn to you with my whole soul, I entrust and devote my whole heart to you. Through this, I understand, I promise, and I desire to consecrate myself to you and to glorify you with my most excellent virtues, and especially for your angelic manners; to emulate your example, to foster devotion towards you among my confreres; to invoke your holy name, and to bless and commend you until the end of my days. Freely, I commend my soul, my senses, my heart, and everything to you. Sweet Aloysius, behold me, who loves you so much, and who wishes to be like you in this life. Protect me, defend me, and preserve me in your grace, so that, by serving you, and by honoring you, I may better serve Jesus and Mary, and may honor them, and finally, may I be able to praise God with you in Paradise for all eternity. Amen. FROM THE SACRED CONGREGATION OF THE HOLY OFFICE, QUESTIONS concerning the "Independent Order of Good Templars." The following questions were proposed to the Supreme Congregation of the Holy Office by the Apostolic Prefect of Norway: I. Does the society called "Independent Order of Good Templars" fall under the excommunication imposed by the Apostolic Constitution against secret societies?

[*Latin ed. p. 753*]

753 FROM THE SACRED ROMAN UNIVERSAL INQUISITION, and concerning the matter negatively: II. Whether it is permitted under penalty

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to give this name to that society? Furthermore, the Most Eminent Fathers Inquisitors General, having considered the matter, in a meeting held on August 9, 1893, and with the approval of the Supreme Pontiff, issued the following decree: To 1. Postponed. To II. Affirmative, that is, to deter the faithful from giving this name to this Society. LETTERS to the Archbishop of Coloniensem concerning spouses in mixed marriages. My Lord, by Letters dated December 18, 1891, addressed to His Holiness Pope Leo XIII, Your Eminence, together with your suffragans, after describing the most serious inconveniences arising from matrimonial causes, in which the nullity of marriages of mixed religion, valid only civilly, is declared, requests: 1° Who is the Ordinary, before whom such a process must be instituted? 2° By what summary method can the same process be conducted, besides the norms established in the Benedictine Constitution? After carefully discussing this in the General Congregation on the feast of the Vth of the month of July, the Eminent Cardinals, together with the Inquisitors General, considered it necessary to respond: To 1. Spouses in mixed marriages are subject to the Bishop in whose diocese the Catholic party has their domicile; and when both are Catholics, because the heretical party has returned to the bosom of the Church, they are subject to the Bishop in whose diocese the husband has his domicile. To 2. It is requested to petition His Holiness for a grace of five years, provided that there never be a lack of a defender of the marriage, who performs his office in the legal proceedings, and that, at least in the extrajudicial acts, and by every other means possible, provision be made so that clear and conclusive proofs never lack. Furthermore, the Most Eminent Fathers ordered that this be communicated to your suffragans, so that they do not cease to deter the faithful from entering into civil marriages as gravely illicit; so that, as is fitting, they may teach that those marriages are even more illicit which are contracted by a Catholic with a non-Catholic minister; and that the presumption of nullity, or rather, of validity, of both marriages must not stand, and that in more difficult cases, recourse must be had to the Holy See. All of which, having been approved by His Holiness, I hasten to communicate to Your Eminence; and I pray to God that He may keep you for a long time, safe and sound. Rome, July 21, 1892. R. CARD. MONACO. Acts, Vol. XXVI, page 48.

[*Latin ed. p. 754*]

754 WHAT IS CONTAINED IN THIS VOLUME: "I. Letters and Acts of the Most Holy Pope Leo XIII addressed to Gaspard Decurlins; in which he rejoices at the assembly of workers, recently held in Biel, in Switzerland, page Iii. Letters of the Most Holy Pope Leo XIII addressed to Émman, Archbishop of Bordeaux, in which he rejoices that the study of promoting peace and concord is increasing among the French. 76 Encyclical Letter of the Most Holy Pope Leo XIII to the Bishops of Hungary; in which he laments that recently, by civil laws, other decrees have been enacted

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which are no less harmful to the Catholic Church than those previously enacted. 129 Encyclical Letter of the Most Holy Pope Leo XIII on the Rosary of Mary. 193 Letter of the Most Holy Pope Leo XIII to the Bishops of Spain concerning the erection of a Spanish clerical college in the city. . . . 199 Encyclical Letters to all the Ordinaries of the Catholic Church - On the study of Holy Scripture. 269 Brief Letters of the Most Holy Pope Leo XIII; in which new instructions are presented regarding Canons for the honor of . . . 449 Encyclical Letter of the Most Holy Pope Leo XIII to the Polish Bishops; in which he praises them for their steadfast faith in the face of persistent persecution, and encourages them to constancy. . . . 523 Letters of the Most Holy Pope Leo XIII to the Ordinaries of Peru. . . . 648 Letters of the Most Holy Pope Leo XIII to Émman, Archbishop of Mechlin, and other Bishops of Belgium, concerning the University of Louvain. . . . 653 Apostolic Letter of the Most Holy Pope Leo XIII to the Princes and peoples of the whole world, on the occasion of his episcopal jubilee. . . . 705 From the ACTS OF CONSISTORY: Concerning the Consistory held on June 5, 1893. 3 Concerning the Consistory held on May 18, 1894. 656 From the SECRETARY'S BREVES of the Most Holy Pope Leo XIII, in which it is declared that the venerable servants of God, Peter Sanz, the martyr, and others, etc., may be called by the name of the blessed. 79 The most recent Constitutions of the Benedictines. . . . . 371 Brief."

[*Latin ed. p. 755*]

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763 GENERAL INDEX OF CONCLUSIONS NOTED IN MOST OF THE ACTS CONTAINED IN THIS VOLUME, THE SUBJECT MATTER OF WHICH IS FULLY EXPLAINED OR STATED IN THE INDIVIDUAL ACTS. These conclusions are included under the following terms: Pious Foundations, Bishops concerning the Sacred Orders, Funerals. Testimonial Letters, Marriage. Masses, Oratories of Cemeteries, Religious Orders concerning pious bequests. Pious Foundations. Bishops, as delegates of the Apostolic See, are the executors of all pious foundations, both in the last will and testament and during the lifetime of the testator, and they

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have the right to visit pious institutions, whatever they may be called. page 165. All that have the ecclesiastical character, or pertain to pious causes, are those which have been instituted for the worship of God, for the salvation of souls, or for the support of the poor, ibid. Bishops concerning the Sacred Orders. With regard to this matter, the custom which would have limited the power of the Ordinaries in this double manner would have been entirely to be rejected, as it would be detrimental to the rights of the Bishops, ibid. Funerals of Eminences. To the titular church, in the funerals of Eminences, is due one-half of all emoluments which the parish church receives in these circumstances, p. 31. Whatever is assigned to the titular churches of Eminences, on the occasion of their funerals, appears to be in the nature of a fourth of the funeral expenses. To each Bishop is given, by law, not everywhere, but only within the limits of his own Diocese, the power of jurisdiction and the faculty of promoting to the sacred orders those who are subject to him, and others who are endowed with letters of dismissal from his own Ordinary, p. 118. The Parish Priest concerning Holy Functions, the Fraternity of the Third Order of St. Francis, the Vicarius generalis, or the portion of the canonry, which elsewhere varies, but in Rome reaches one-half, ibid. Under the name of emoluments, are included all the benefits and offerings which are made to the parish church during the funeral or the exequies of the deceased, ibid.

[*Latin ed. p. 764*]

764 INDEX. Letters of testimony. Those who are to be promoted to the sacred orders must exhibit letters of testimony from those Bishops in whose dioceses they have resided, for at least three months, just as young men from religious families are required to do, who have been subject to military service. p. 431. Marriage. Indeed, the mutual giving of bodies for the procreation of offspring pertains to the intrinsic reason of marriage; and therefore, it is nullified whenever there is some impediment to the exercise of the act. p. 97. A marriage begun by a hermaphrodite is valid, insofar as he is not impotent with respect to the sex by which he contracts the marriage; for then this impotence would invalidate the marriage, if it rendered the contracting party incapable of carnal union. p. 233. It is certain that consent in a marriage contract can be subordinated to a lawful and possible condition, so that the marriage is truly valid or not, depending on whether the condition exists or does not exist. p. 346. Although some doctors hold that a condition should be brought into the marriage agreement itself before the parish priest and witnesses, nevertheless, in order that conditions may be considered added, it is required by the external forum that they be expressed, and that there be proof of the explicit addition of the condition. p. 346. It is one thing to manifest some will in general, and another to add it as a condition; so that one wishes to celebrate the contract under this condition and no other. p. 347. From the jurisprudence

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of the Holy Congregation of the Council, it is found that rigorous proof is required when there is a dispute about the validity of a marriage due to an added and unpurified condition. Ibid. Since it is publicly known that marriages are not to be dissolved, hence, an error that does not pertain to the person will not benefit him who has erred through the deceit of the other contracting party, unless the consent has been expressly linked to the condition. Ibid. There are not lacking authors who hold that, if, while the condition of the marriage is pending before the parish priest and witnesses, the contracting parties have intercourse, the Church is presumed to have relinquished the condition and the marriage is perfected. Ibid. A condition such as "if I find you to be a virgin, if you do not bear a womb" is to be considered as vile and therefore, as if not added, whenever the investigation of that matter is understood through intercourse, and not through a lawful means. Ibid. Although illicit, the marriage is nevertheless valid, in which a dispensation has been obtained for a more remote degree without mention of a closer degree; provided that the relationship is not of the first degree of consanguinity or affinity, and provided that...

[*Latin ed. p. 765*]

INDEX Generalis: Let the vice of deception and fraud, or bad faith, be absent. p. 423. When it is a question of a marriage dissolved by the death of one or both spouses, conjectural proofs are sufficient to demonstrate its validity; because then, it is not a question of the marriage itself, but of the consequences of the marriage, ibid. Children, even if conceived from a sinful union, are called simply natural, and in no way illegitimate or incestuous, if either or both parents are unaware that there exists between them an impediment to marriage. p. 424. No children born from a marriage can be called legitimate if either or both spouses were in bad faith. ibid. Since the question of the dissolution of a marriage is a very serious matter, it is necessary that the judge be presented with proofs of impotence, in order that the dissolution of the marriage may be considered under this head, p. 480. The validity of the marriage is presumed, and it cannot be dissolved once entered into, when there is doubt as to whether there is a true impotence, and whether the marriage has been consummated or not; and this doubt cannot be overcome, after due diligence has been exercised, ibid. Every person is naturally presumed to be capable, and therefore, he who asserts a true impotence, where it is doubtful, bears the burden of proving it, ibid. In this matter, until such impotence has been formally proven, it must be presumed that there is natural capacity, and that the marriage is valid, if it is established that the marriage has been entered into, and there is doubt about its impediment, which is never presumed, ibid. In a doubt about prior impotence, the strictness of the law must be observed for the sake of the validity of the marriage, p. 600. Prior or subsequent impotence does not invalidate a marriage if it is temporary; and it is sufficient if the

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union is possible at the time of the contract, or if it will be possible in the future, since the actual use of marriage does not pertain to its essence, ibid. When proceeding by the way of grace, or by a dispensation to be granted by the Roman Pontiff, then, if the lack of consummation has been proven, the marriage can be dissolved, even if there was doubt about the perpetuity of the impotence, ibid. It is more tolerable and more honest, according to the discipline of the Church, to dissolve a marriage, than to provide, under the name and law of marriage, an occasion for incontinence, and to foster a continuous sin, ibid. In matrimonial causes, consanguineous and relatives are not considered as suspects by law, because "domesticity does not diminish, but rather increases, the trustworthiness of witnesses in this matter, by reason of presumed knowledge and truth," p. 687. Grave fear or mental distress is verified in fact when the evil, whether present or future, is serious for the person who experiences it.

[*Latin ed. p. 766*]

766 INDEX GENERALIS, which she could not endure, and at the same time, believes that this truly threatens her, ibid. Not only does right reason, but also the laws proclaim that the greatest evil is the loss of liberty: which is more easily taken from a woman than from a man, ibid. The gravity of fear arises from the nature of the threats, from the quality both of those from whom they originate, and of those who are said to suffer them, ibid. Various circumstances constitute a grave fear; these are prolonged and troublesome vexations, the severity of the threats, expulsion from the paternal home, deprivation of inheritance, the authority and persistence of those who threaten, their prompt anger and violence, the fragility and weakness of the one who suffers, ibid. Nothing benefits the declaration of nullity of a marriage if a woman, having suffered fear or dread, and having been repulsed by her parents, has remained in the house of her husband for several years, with carnal intercourse; and because the marriage is not validated unless it is contracted again, using the Tridentine form, id. Masses. Everywhere, the decrees regarding the celebration of Masses, and those prohibitions concerning their moderation or reduction, issued by the Holy General Council, and inserted by Innocent XII in his Constitution *Nuper*, p. 406, are binding. Oratories in cemeteries. Chapels that are built in cemeteries cannot be called true public oratories, nor can bishops grant indulgences for Masses to be celebrated there, p. 485. Religious orders concerning pious legacies. It is considered that any donation or offering made to religious orders for pious purposes or legacies, intended to be permanent, is made to the Community or Order; therefore, the Community, and not the Regular members individually, are responsible for these matters, p. 629. Therefore, the reasons presented by the Procurator to the Holy Congregation were not considered of any value, because the burden fell upon the Community of the Barnabites to safeguard the aforementioned property and not to

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leave it in the hands of a deceased religious parish priest, ibid. Therefore, the obligation to restore the lost property was rightly imposed upon the Father Prefect General, because the omission occurred through the fault, or rather, negligence, of the Community, ibid. The parish priest concerning sacred functions. The parish priest has in his own church a legally founded intention freely to perform all functions, and to hold the first place in them, because of the dominion, primacy, and governance that the parish priest holds in his church and in all its parts, p. 222. Therefore, all functions, of whatever kind, must be performed by the parish priest or by someone dependent upon him.

[*Latin ed. p. 767*]

INDEX: Concerning a matter brought before the Parish Priest himself, so that order may not be disturbed in the parochial Church, ibid. The Parish Priest, as the primary minister of the parochial Church, has the right to receive the offerings that are made within the limits of his parish, ibid. It belongs to the Parish Priest to receive the emoluments of funerals, or those that are received in reason of the funeral and burial, as compensation for the burden of the office of the curate and the administration of the sacraments, ibid. The Sodalitas of the Third Order of St. Francis. The Secular Franciscans, being considered as a Religious Order, even after the recent Pontifical Constitutions, participate in the rights and privileges of the Regular clergy, under certain conditions, p. 246. These conditions, with regard to funerals, are that they proceed with their own banner, with crossed arms, wearing their own habit, and with the participation of the Parish Priest up to the church where the burial takes place, ibid. With these conditions observed, the Sodalitas of the Third Order of St. Francis possesses the right of precedence over any other lay confraternities, according to the resolution of the Sacred Congregation of Rites of May 28, 1886, p. 247. A Sodalitas of the Third Order, duly constituted, is not exempt from the jurisdiction of the Ordinary, except with regard to discipline and internal direction, in which matters it depends on the Superior of the Regular Order, according to the resolution of the Sacred Congregation of Indulgences of January 31, 1893: where, in question III, namely, whether the Bishop can also visit the Congregations of Regular clergy in the churches - in those matters pertaining to discipline, the answer is negative; in those matters pertaining to internal direction, the answer is affirmative; but it is still required that it be duly constituted, or ordered, according to the pontifical constitutions, ibid. Although the Secular Franciscans are bound to all obedience and dependence on the religious Franciscans of the First Order, this dependence is limited: therefore, the Superior of the religious order cannot dissolve the sodalitas of the secular Franciscans at his own discretion, but it is necessary that there be grave and urgent reasons, p. 498. Similarly, the rights that are granted to the Third Order by the apostolic bulls, such as the right to

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proceed under the common cross of the religious, cannot be taken away or diminished by those religious; only these rights can be lost through a legitimate contrary custom, of which, however, in the present question, there was no evidence, ibid. The right belonging to the Secular Franciscans to proceed under the cross of the religious of the First Order, in internal and external, or public, processions, is not limited only to the case when the aforementioned religious are present; but it extends also to processions in which...

[*Latin ed. p. 768*]

768 GENERAL INDEX: Other regular orders are added, according to the saying, "where the law does not distinguish, neither should we," ibid. In the election of officials of the Third Orders, as in other similar acts, the law of the statutes must be strictly observed, and it should not be easily resorted to other remedies or extraordinary means by derogating from the law, since those things which exceed the law are most odious. ibid. General Vicars. Only one general vicar can be established in Italy, to whom the administration of spiritual affairs, and also contentious jurisdiction, is entrusted, p. 174. This is confirmed by the opinion of the Canonists, which states: "The right exists to establish more general vicars where custom prevails; but it is not permitted where this custom no longer exists." ibid. In Italy, the custom of having two general vicars has never prevailed, which also seems contrary to the mind of Trent, since in that place, only one general vicar is mentioned, ibid.

IMPRIMATUR: Fr. Raphael Pierotti, Order of Preachers, S.P.A., Master.

IMPRIMATUR: Julius Lenti, Patriarch of Constantinople, Vicegerent.

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